

THE
Crown Circuit
COMPANION;

CONTAINING

The PRACTICE of the ASSISES on the CROWN
SIDE, and of the Courts of General and General
Quarter Sessions of the Peace :

Wherein (among other Things incident to the Practice of the CROWN
LAW) is included

A COLLECTION of Useful and Modern PRE-
CEDENTS of INDICTMENTS in Criminal Cases; as
well at COMMON LAW, as those created by STATUTE.

Under all

Which PRECEDENTS, so much of the COMMON and STATUTE
LAWS are set forth, as at one View to shew the Circum-
stances that create the several Offences; the Offenders Pu-
nishment; and how, and in what Cases FELONS are to
have, or not have the Benefit of CLERGY.

WITH

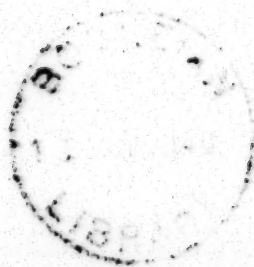
References to the Printed AUTHORITIES, relating
thereto.

By W. STUBES, and G. TALMASH, of *Staples-
Inn*. Gentlemen.

The SECOND EDITION corrected: To which is added, *The
Clerk of Assises Circuit Companion*, containing the Appointment of the
several Officers attending the Circuit, their Duty, and the Fees usually
taken by them; also many new Precedents of Indictments, and the
Laws under their several Heads continued down to the present Time.

VOL. II.

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The TITLE and CONTENTS

OF THE

**Second PART, are to be placed before
Page 319.**

*An Indictment for Perjury in an Oath
made before a Justice of the Peace,
in Relation to a Breach of the Peace.*

Middlesex. **B**E it remembered, That at the Session of Oyer and Terminer of our Sovereign Lord the King, holden for the County of *Middlesex*, at *Hicks's Hall*, in *St. John Street*, in the said County, on *Tuesday* the nineteenth Day of *April*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. before *John Milner, John Martin, Henry Binfield, Nathaniel Chandler, Esqrs.* and others their Fellows Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain* to the same Justices abovenamed, and others, and any four or more of them directed to enquire more fully the Truth by the Oaths of good and lawful Men of the said County of *Middlesex*, and by other Ways, Means, and Methods by which they should, or might better know (as well within Liberties as without) by whom the Truth of the Matter may be better known, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Chippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms or Dominions whatsoever; and of all Murders, Felonies, Manlaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, Conventicles, unlawful uttering of Words. Assemblies, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Mainte-
nances,

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nances, Oppression, Champarty, Deceits, and all other Evil-doings, Offences and Injuries whatsoever; and also of the Accessaries of them within the County aforesaid, as well within Liberties as without, by whomsoever, and in what manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what manner, and of all other Articles and Circumstances concerning the Premises, and every of them, or any of them, in any manner whatsoever, and the said Treasons, and other the Premises, to hear and determine according to the Laws and Customs of *England*, by the Oaths of *Phillip Betty*, Gent. *John Burib*, *John Hoane*, *Thomas Clifton*, *Dove Ravner*, *Richard Moss*, *William Barnard*, *Robert Smith*, *James Smith*, *William Pitts*, *William Simmonds*, *Thomas Fenton*, *Hugh Noden*, *John Miles*, *Richard Barrass*, *Thomas Pops*, *James Crafts*, *Thomas King*, *Thomas Clark*, *David Hannot*, *John Woolveridge*, *Thomas Boeth* and *Aaron Ardin*, good and lawful Men of the said County of *Middlesex*, then and there sworn, and charged to enquire for our said Lord the King, for the Body of the said County. It is presented in manner and form as followeth; that is to say, *Middlesex*. The Jurors for our Lord the King upon their Oaths present, that formerly, to wit, on the sixteenth Day of *November*, in the tenth Year of the Reign of our Sovereign Lord *George* the second, King of *Great Britain*, &c. at the Parish of *St. James* within the Liberty of *Westminster*, in the County of *Middlesex*, *Rebecca* the Wife of *G. C.* came before *Thomas Deveil*, Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid; and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the
same

same County, and then and there, upon her Oath, charged *John G de M.* and *Frances M.* before the said *Thomas Deveil*, the Justice aforesaid, with having assaulted, stricken and bruised her the said *Rebecca*; and she the said *Rebecca*, then and there also deposed upon Oath before the said *Thomas Deveil*, the Justice aforesaid, that she the said *Rebecca* verily believed her Life was then in very great Danger: And the Jurors aforesaid, upon their Oath aforesaid, do further present that *Clary S.* late of the Parish of *St. James* within the Liberty of *Westminster* aforesaid, in the County of *Middlesex* aforesaid, Widow, well knowing the Premisses, and wickedly devising and intending unjustly to aggrieve the said *John G de M.* and *Frances M.* and to procure them, without any just Cause, to be imprisoned, and kept in Prison for a long space of Time, on the said sixteenth Day of *November*, in the Year aforesaid, at the Parish of *St. James* within the Liberty of *Westminster* aforesaid, in the County aforesaid; the said *Clary S.* then and there being present in her own proper Person, before the said *Thomas Deveil*, then and there being one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine divers Felonies, Trespases, and other Misdemeanors committed in the same County, did then and there take her Corporal Oath, and was sworn upon the Holy Gospel of God, before the said *Thomas Deveil*, he the said *Thomas Deveil*, then and there having sufficient Power and Authority to administer the said Oath to the said *Clary S.* in that behalf; and the said *Clary S.* not having God before her Eyes, but being moved and seduced by the instigation of the Devil, then and there before the said *Thomas Deveil* upon her Oath aforesaid, falsely, maliciously, wilfully and

Y

corruptly

corruptly did say, depose, swear, and give, and make Information in writing as followeth, that is to say ; Mrs. *Clary S.* Midwife (meaning herself the said *Clary S.*) being upon Oath says, That she (meaning her the said *Clary*) has attended *Rebecca C.* (meaning *Rebecca C.* above-named) ever since Sunday Night last and finds her (meaning the said *Rebecca*) in a very dangerous Condition ; and believes that the Child, or Children, she (meaning the said *Rebecca*) is now Pregnant of, is or are Dead within her, (meaning the said *Rebecca*) occasioned by the Violence she received. Whereas in truth and in fact, at the Time when the said *Clary S.* so took her Oath aforesaid, in form aforesaid, or at any other Time during the Time she is mentioned in the said Information, of her the said *Clary* to have attended the said *Rebecca C.* she the said *Clary*, did not find her the said *Rebecca*, in a very dangerous Condition, or in any dangerous Condition : And whereas in truth and in fact she the said *Rebecca*, was not then or at any other Time during the Time aforesaid, in any dangerous Condition : and she the said *Clary* at the Time she so took her Oath aforesaid, in form aforesaid, then and there well knew that the said *Rebecca* was not then in any dangerous Condition ; and whereas in truth and in fact at the said Time, when she the said *Clary* so took her Oath aforesaid, in form aforesaid, or at any other Time during the Time she is mentioned to have attended the said *Rebecca C.* as aforesaid, she the said *Rebecca* was not Pregnant of or with any Child or Children, nor was or were any Child or Children then or during the Time aforesaid, Dead within her the said *Rebecca* : And whereas in truth and in fact at the same Time when she the said *Clary S.* so took her
Oath

Oath aforeſaid, in form aforeſaid, ſhe the ſaid *Clary* well knew that the ſaid *Rebecca C.* was not then or at any other Time during the ſaid Time ſhe is mentioned to have attended the ſaid *Rebecca C.* as aforeſaid, Pregnant of or with any Child or Children, and that then or at any Time during the Time aforeſaid, there was not nor were any Child or Children Dead within her the ſaid *Rebecca*. And ſo the Jurors aforeſaid, upon their Oath aforeſaid, do ſay, That the ſaid *Clary S.* on the ſaid ſixteenth Day of *November* in the Year aforeſaid, at the Pariſh of *St. James* within the Liberty of *Westminster* aforeſaid, in the County aforeſaid, before the ſaid *Thomas Deveil*, ſo as aforeſaid, having ſufficient Power and Authority to adminiſter the ſaid Oath to the ſaid *Clary S.* falſely, maliciously, wickedly and corruptly, in manner and form aforeſaid, did commit willful and corrupt Perjury, to the great diſpleaſure of Almighty God; to the evil Example of all others in the like Caſe offending; and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

For Perjury upon bearing of an Appeal at the Quarter-Sessions againſt an Order of Adjudication of Baſtardy, made by two Juſtices of the Peace.

Herefordſhire. **T**H E Jurors for our Lord the King u^e, on their Oath preſent, That *Mary Colins*, late of the Pariſh of *Orleton*, in the County of *Hereford*, ſingle Woman, on the ſixteenth Day of *March*, in the Year of our Lord One thouſand ſeven hundred and thirty

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three, and in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, in her proper Person, came before *James Clark* and *Richard Stephens*, Esqrs. then being two of the Justices of our Sovereign Lord the King, assigned to keep the Peace of our said Lord the King in and for the said County of *Hereford*, and also to hear and determine divers Felonies, Trespasses and other Misdemeanors, committed in the said County; and then and there, having sufficient Power and Authority to administer an Oath, and take her Examination herein after-mentioned, (one of whom, to wit, the said *Richard Stephens*, then was of the *Quorum*;) and then and there the said *Mary Collins* was sworn, and took her corporal Oath before the said *James Clark* and *Richard Stephens*, on the holy Gospel of *God*, and then and there, upon her Oath aforesaid, did say, depose and swear, and give her Examination in Writing, as followeth; (to wit) “ The Examination of *Mary Collins*, of the Parish of “ *Orleton*, in the County of *Hereford*, single “ Woman, upon her Oath saith, That on or about the twentieth Day of *November*, in the “ Year of our Lord One thousand seven hundred “ and thirty-three, she was delivered of a Female Bastard-Child, in the said Parish of *Orleton*, in the said County of *Hereford*; and “ that *Francis Price*, of the Town of *Ludlow*, “ in the County of *Salop*, Gentleman, is the Father of the said Bastard-Child; and saith, that “ the said Bastard-Child hath been chargeable “ to the Parish of *Orleton*, and is likely so to “ continue: And further saith, that the Charge “ and Expence of her Lying-in was paid by “ the Churchwardens and Overseers of the Poor “ of

“ of the said Parish of *Orleton*, or some or one
“ of them, she being unable to maintain herself,”
as by the said Examination (Relation being
thereunto had) doth and may appear, Where-
upon they the said *James Clark* and *Richard
Stephens*, the Justices aforesaid, pursuant to the
Statute in such Case made and provided, after-
wards, to wit, the same sixteenth Day of *March*,
in the said seventh Year of the Reign of our
said Lord the King, at the Parish of *Orleton* a-
foresaid, in the County aforesaid, by a certain
Order under their Hands and Seals duly made,
bearing Date the same Day and Year last above-
mentioned, did adjudge the said *Francis Price*,
of the Town of *Ludlow*, in the County of *Salop*,
Gentleman, to be the putative Father of the
said Bastard-Child, and that as well for the Re-
lief of the same Parish of *Orleton*, in part, as
also for the Provision and Maintenance of the
said Bastard-Child, that he the said *Francis Price*
should, weekly and every Week, from the Day
of the Date of the said Order, and so long as
the said Bastard-Child should be chargeable to
the said Parish of *Orleton*, pay, or cause to be
paid, to the Churchwardens, or Overseers of the
Poor of the said Parish of *Orleton*, for the
Time being, the Sum of eighteen Pence, for
and towards the Maintenance of the said Bas-
tard-Child; and that he the said *Francis Price*
should then forthwith, upon Notice of the same
Order, pay, or cause to be paid, to the Church-
wardens or Overseers of the Poor of the said
Parish of *Orleton*, the Sum of six Pounds of
lawful Money of *Great Britain*, it then apear-
ing unto the same Justices, that so much had
necessarily been disbursed and paid by the Church-
wardens and Overseers of the Poor of the
said Parish of *Orleton*, by Reason and on Ac-

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count of the Birth and Maintenance of the said Bastard Child; and that the said *Francis Price* should give sufficient Security to the Churchwardens and Overseers of the Poor of the Parish of *Orleton* aforesaid, well and truly to perform so much thereof, as did concern the said *Francis Price*, and which, on the Part of the said *Francis Price*, was by the same Order ordered to be done and performed, as by the same Order (Relation being thereunto had) may more fully appear; of which said Order the said *Francis Price*, afterwards, to wit, on the seventeenth Day of *March*, in the Year aforesaid, at *Ludlow* aforesaid, in the said County of *Salop*, had Notice. And the Jurors aforesaid upon their Oath aforesaid, do further present, That afterwards, to wit, at the General Quarter-Session of the Peace of our Sovereign Lord the King, holden at *Hereford*, in and for the County of *Hereford*, on *Tuesday*, in the first Week next after the Close of *Easter*, to wit, on the twenty-third Day of *April*, in the said seventh Year of the Reign of our said Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before *John Stafford*, Esquire, Sir *John Morgan*, Baronet, *Edward Harley*, *Velters Cornwall*, Esquires, and other their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County of *Hereford*, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors, committed in the same County, the said *Francis Price* did then and there, in due Form of Law, appeal to the said Court of General Quarter-Session of the Peace against the said Order of Adjudication, made by the said *James Clark* and *Richard Stephens*, the two Justices first above-named in Manner and Form as aforesaid, and afterwards, to wit, at the same General Quarter-

Quarter-Session of the Peace of our said Lord the King. holden at *Hereford* afore said, in and for the said County of *Hereford*, by Adjournment. on *Thursday*, the twenty-sixth Day of the same Month of *April*, in the said seventh Year of the Reign of our said Lord the King, before *John Stafford*, Esq; Sir *John Morgan*, Baronet, *Edward Harley*, *Velters Cornwall*, Esquires, and other their Fellows afore said, the said Appeal came on to be heard, and then and there was heard before the Justices of said our Lord the King last named, and other their Fellows afore said: And the said *Mary Collins*, then and there was sworn, and took her corporal Oath before the same Justices last named, on the Holy Gospels of God, to speak the Truth, the whole Truth, and nothing but the Truth, of and upon the Premisses afore said (they the said Justices last named, then and there having sufficient Power and Authority to administer an Oath to the said *Mary Collins*, in that Behalf) and the said *Mary Collins*, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, and wickedly and maliciously contriving and intending, not only to deprive the said *Francis Price* of his good Name, Fame, and Reputation, but also falsely to charge, the said *Francis Price* with begetting her with Child at *Hereford* afore said, in the County of *Hereford* afore said, on the said twenty-fifth Day of *April*, in the said seventh Year of the Reign of our said Lord the King, did falsely, wickedly, and corruptly, on her Oath afore said, before the said Justices of our said Lord the King, last above named, and other their Fellows afore said, say, depose, swear and give Evidence upon the hearing of the said Appeal,

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as followeth: " That Mr. Price, (meaning the
 " the said *Francis Price*) begot me (meaning
 " her the said *Mary Collins*) with Child, at
 " his own House in *Ludlow* (meaning the House
 " of the said *Francis Price*, situate in the Town
 " of *Ludlow*, in the County of *Salop*) in the
 " the lower Room (meaning a Room in the
 " said House of the said *Francis Price*) next
 " the Street, upon a bed that was in the Room
 " (meaning the Room aforesaid) in the Month
 " of *February*, One thousand seven hundred
 " and thirty-two (meaning the Month of *Feb-*
 " *ruary* in the Year of our Lord, One thou-
 " sand seven hundred and thirty two ;" whereas
 in Truth and in Fact, the said *Francis Price*
 did not beget the said *Mary Collins* with Child,
 at his own House in *Ludlow*, in the lower Room
 next the Street, or in any Room or Place in
 the said House of the said *Francis Price*, or in
 any other Place whatsoever. And whereas in
 Truth and in Fact, there was not then, to wit,
 in the said Month of *February*, One thousand
 seven hundred and thirty-two, any Bed what-
 soever in the lower Room next the Street, in
 the said House of him the said *Francis Price*;
 and whereas in Truth and in Fact, the said
Francis Price never had carnal Knowledge of
 the Body of the said *Mary Collins*. And so
 the Jurors aforesaid, upon their Oath aforesaid,
 do say, that the said *Mary Collins*, the said
 twenty-fifth Day of *April*, in the said seventh
 Year of the Reign of our said Lord the King,
 at *Hereford* aforesaid, in the said County of
Hereford, before the same Justices last above-
 named, and other their Fellows aforesaid, so as
 aforesaid, (having sufficient Power and Authority
 to administer the said Oath to the said *Mary*
Collins)

Collins) falsely, maliciously, wickedly, and corruptly on her Oath aforesaid, in Manner and Form aforesaid, did commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, to the great Damage of the said *Francis Price*, and against the Peace of our said Lord the King his Crown and Dignity.

For Perjury in an Affidavit before a Judge of the Common Pleas, in Order to hold a Man to Bail.

London. **T**H E Jurors for our Lord the King upon their Oath present, That *Thomas Dukes*, late of the Parish of *Whitney*, in the County of *Oxford*, Taylor, wickedly and maliciously contriving and intending, one *William Holt* unlawfully to aggrieve, and also the said *William*, to great Expence of his Monies, wickedly to induce and bring, and also to cause the Sum of forty two Pounds eight Shillings and Sixpence, to be indorsed upon a Process of the Court of our said Lord the King, of the Bench, by Virtue of which, the said *William* was arrested to answer in the same Court, at the Suit of *Richard Poston* and others, the Assignees of the Commissioners in a Commission of Bankruptcy, issued against the said *Thomas Dukes*, with an Intent that the said *William* should be compelled to find Bail for the aforesaid Sum of forty-two Pounds eight Shillings and Sixpence, according to the Form of the Statute in such Case lately made and provided, he the said *Thomas Dukes*, on the twenty-sixth Day of *December*, in the seventh Year of the Reign of our Sovereign Lord
George

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George the Second, now King of *Great Britain, France, and Ireland*, Defender of the Faith, at *London*, to wit, in the Parish of *St. Dunstan* in the *West*, in the Ward of *Farringdon Without*, in *London* aforesaid, came in his proper Person before *Thomas Reeve*, Esq; then being one of the Justices of our said Lord the King, of the Bench, and then and there did take his corporal Oath upon the Holy Gospels of God, before the said *Thomas Reeve* (he the said *Thomas Reeve*, then and there, having sufficient Power and Authority to administer an Oath to the said *Thomas Dukes* in that Behalf) and that the said *Thomas Dukes*, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, then and there, before the said *Thomas Reeve*, upon his Oath aforesaid, falsely, maliciously, wickedly, and corruptly did say, depose, swear, and make *Affidavit* in writing, which same *Affidavit* is entitled as followeth: to wit, In the common Bench, between *Richard Poston* and others, Assignees of the Commissioners in a Commission of Bankruptcy, issued against *Thomas Dukes*, Plaintiffs, and *Edward Wilson*, of *Whitney*, in the County of *Oxford*, Gent, and *William Holt*, of *Whitney* aforesaid, Defendants, and was made by the said *Thomas Dukes*, in these Words and Figures following: “*Thomas Dukes*, the Person against
“ whom the Commission of Bankruptcy is issued
“ (meaning himself the said *Thomas Dukes*) maketh Oath, that in or about the Month of
“ *March*, One thousand seven hundred and twenty six, this Deponent informed Mr. *Edward Wilson* and *William Holt*, then living in *Whitney*, in the County of *Oxford*, that this Deponent was in a declining Condition, with
“ Respect

“ Respect to his Circumstances in the World,
“ and that he was not able to satisfy his Cre-
“ ditors ; and some Time after, they asked this
“ Deponent, what he was able to pay his said
“ Creditors in the Pound ? And on this Depo-
“ nent’s saying he was able to pay his Credi-
“ tors ten Shillings in the Pound, the said *Ed-*
“ *ward Wilson* said he was a Fool to think of
“ such a Proposal, for that two Shillings and
“ Six-pence in the Pound, was an honourable
“ Composition, and that the said *Wilson* and
“ *Holt*, then, and frequently afterwards, pressed
“ this Deponent to buy up what Goods he
“ could, and they would put this Deponent
“ in a Way to make up with his Creditors, and
“ have two or three hundred Pounds in his
“ Pocket ; and upon the pressing and repeated
“ Importunities of the said *Wilson* and *Holt*, this
“ Deponent bought several Goods, great Part
“ of which he delivered to the said *William*
“ *Holt*. And this Deponent further saith, that
“ on or about the twenty-first Day of *October*,
“ One thousand seven hundred and twenty-six,
“ the said *Edward Wilson* come to this Depon-
“ ent, and told him he had considered of this
“ Deponent’s Case, and found nothing would do
“ to clear him but a Commission of Bankruptcy ;
“ and upon this Deponent’s saying he did not
“ see how that could do him any Good, since
“ as he was informed all his Books and Papers
“ must be laid before the Commissioners on
“ Oath ; the said *Edward Wilson* said this De-
“ ponent was a Fool, for that he need only
“ swear before the Commissioners, to all that
“ he had when he should go off ; and there-
“ fore advised this Deponent to state an Ac-
“ count with the said *William Holt*, for the
“ Dealings

“ Dealings between the said *Holt* and this De-
 “ ponent, and this Deponent did accordingly,
 “ by the Advice of the said *Holt* and *Wilson*,
 “ on or about the said twenty-first Day of
 “ *October*, One thousand seven hundred and
 “ twenty-six, state an Account with the said
 “ *Holt*, on Ballance of which was due to this
 “ Deponent, the Sum of one hundred eighty-
 “ five Pounds eleven Shillings and Sixpence,
 “ or thereabouts; and that the said *Holt*, (mean-
 “ ing the said *William Holt*) then gave a
 “ Note of his Hand for the said Ballance,
 “ payable to the said *Edward Wilson*, or order,
 “ three Months after Date, and the said *Wilson*
 “ promised to lay it up for this Deponent,
 “ and would indorse on the said Note, it was
 “ in Trust for this Deponent; whereupon this
 “ Deponent, by the Advice of the said *Holt*
 “ and *Wilson* the same Day gave the said *Holt*
 “ a Receipt in full of all Demands, and about
 “ four or five Days afterwards, by the Advice
 “ of the said *Edward Wilson*, absconded
 “ from his usual Place of Abode, in Order to
 “ be a Bankrupt, and liable to have a Com-
 “ mission of Bankruptcy taken out against him.
 “ And this Deponent further saith, that a
 “ Commission of Bankruptcy afterwards issued
 “ against this Deponent, and this Deponent was,
 “ by the Commissioners (on his Examination
 “ before them) committed to the *Poultry Comp-*
 “ *ter*, and when this Deponent was in Prison
 “ there, the said *Holt* came to this Deponent,
 “ and told him it would be better for him
 “ not to inform the Commissioners of the said
 “ Note, for that if he did, both the said *Holt*
 “ and *Wilson* would deny the same. And this
 “ Deponent further saith, that after the Com-
 “ mission

“ mission was so issued, and this Deponent had
“ been once examined before the Commissioners,
“ the said *Wilson* come to this Deponent, and
“ persuaded this Deponent to deliver to the
“ said *Wilson*, a Note under the Hand of Mr.
“ *John Mills*, for Payment of twenty Pounds
“ to this Deponent, or order, and the said
“ *Wilson* then advised this Deponent, in Case
“ any Enquiry was made after the said Note,
“ to say it was in the Hands of the said *Holt*.
“ And this Deponent saith, that the Contents
“ of the said Note, so delivered to the said
“ *Wilson* by this Deponent, has been since re-
“ ceived by the said *Wilson*, or his Order, of
“ the said Mr. *Mills*, and the said *Wilson*, after
“ the Commissioners had examined this Depon-
“ ent, prevailed with this Deponent to let him
“ have a Piece of Holland, Value seven Pounds
“ twelve-Shillings, which he said he would have
“ for his Trouble in attending the Commis-
“ sioners. And this Deponent further saith, that
“ after this Deponent’s stating the aforesaid Ac-
“ count (meaning the stating of the said Ac-
“ count, by him the said *Thomas Dukes*, with
“ the said *William Holt*) the said *Holt* (meaning
“ the said *William Holt*) prevailed with this
“ Deponent (meaning himself the said *Thomas*
“ *Dukes*) to intrust him, (meaning him the
“ said *William Holt*) with several Goods with-
“ out paying for the same, and without any
“ other Consideration, than to secret them from
“ this Deponent’s Creditors, which Goods were
“ as follows: to wit, Ten Pieces of Shags,
“ Value twenty-seven Pounds and five Shillings;
“ three Pieces of Coating, Value fifteen Pounds,
“ and thirty Yards of Coloured Blanketing,
“ Value three Shillings and Sixpence by the
“ Yard,

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“ Yard, all which Goods being the proper
 “ Goods of this Deponent (meaning himself
 “ the said *Thomas Dukes*) were delivered or
 “ caused to be delivered by this Deponent
 “ (meaning himself the said *Thomas Dukes*) to
 “ the said *Holt* (meaning the said *William Holt*)
 “ for the Purpose and Consideration above-
 “ mentioned, and no other.” As by the same
Affidavit, affiled in the said Court of our said
 Lord the King, of the Bench of *Westminster*,
 in the County of *Middlesex*, more fully doth
 appear. Whereas in Truth and in Fact, the
 said *William Holt*, in the *Affidavit* aforesaid
 named, did never give a Note of his Hand for
 the Sum of one hundred eighty-five Pounds
 eleven Shillings and Sixpence, or any other Sum
 of Money (for the Ballance of the Account in
 the *Affidavit* aforesaid, mentioned) to pay to
 the said *Edward Wilson*, or Order, three Months
 after Date, or any other Note for the Ballance of
 any other Account whatsoever. And whereas in
 Truth and in Fact, after the stating of the aforesaid
 Account by him the said *Thomas Dukes*, with the
 said *William Holt*, he the said *William Holt* did not
 prevail with the said *Thomas Dukes* to intrust him
 (meaning the said *William Holt*) with ten Pieces of
 Shags, Value twenty-seven Pounds and five Shill-
 ings; three Pieces of Coating, Value fifteen Pounds,
 and thirty Yards of coloured Blanketing, Value
 three Shillings and Sixpence by the Yard,
 without paying for the same. And whereas in
 Truth and in Fact, after the stating of the a-
 foresaid Account, no Goods or Chattels of the
 proper Goods of him the said *Thomas Dukes*,
 were delivered or caused to be delivered by the
 said *Thomas Dukes*, to the said *William Holt*,
 for the Purpose and Consideration to secrete the
 said

said Goods from the Creditors of him the said *Thomas Dukes*. And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *Thomas Dukes*, on the said twenty-sixth Day of *December*, in the said seventh Year of the Reign of our said Sovereign Lord the King, at *London* aforesaid, in the Parish and Ward aforesaid, before the aforesaid *Thomas Reeve*, so as aforesaid (having sufficient Power and Authority to administer the said Oath to the said *Thomas Dukes*) falsely, maliciously, wickedly, and corruptly, in Manner and Form aforesaid, did commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Perjury in an Affidavit in the Marshalsea-Court, swearing a Man was indebted to him in Ten Pounds, when he was not in any wise indebted to him.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A.C.* late of the Parish of *St. George, Southwark*, in the County of *Surry*, Yeoman, on the thirtieth Day of *December*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain, &c.* at the Palace Court of *Westminster*, of our said Lord the King, holden at *Southwark*, in the Parish and County aforesaid, and within the Jurisdiction of that Court, came in his proper Person before *John Plaisow*,
Gent.

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Gent. and then and there did produce and exhibit a certain *Affidavit*, in Writing, of him the said *A.C.* and then and there, the said *A.C.* in due Form of Law was sworn, and did take his corporal Oath upon the Holy Gospels of God, of the Matters in that *Affidavit* contained, before the said *John Plaistow* (he the said *John Plaistow* then and there having sufficient Power and Authority to administer an Oath to the said *A.C.* in that Behalf) and that the said *A.C.* then and there, upon his aforesaid Oath, taken before him the said *John Plaistow* as aforesaid, did swear that the Contents of his said *Affidavit* was true, and that the said *A.C.* so being sworn, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, and little regarding the Laws of this Realm, or the Penalties in the same contained, but his aforesaid Oath esteeming as nothing, then and there, upon his Oath aforesaid, in his *Affidavit* aforesaid, falsely, wilfully, and corruptly did say and swear, in these Words following: That is to say, Palace
 “ Court, “ *A.C.* of the Parish of ——— in the
 “ County of *Surry*, Gent. maketh Oath, that
 “ *Benjamain Wright* is indebted to him, (mean-
 “ ing himself the said *A.C.*) ten Pounds for
 “ Rent.” Whereas in Truth and in Fact the
 said *Benjamain Wright* was not indebted to him
 the said *A.C.* in the aforesaid Sum of ten
 Pounds, or in any other Sum of Money what-
 soever. And so the Jurors aforesaid, upon their
 Oath aforesaid, do say, that the said *A.C.* on
 the said thirtieth Day of *December*, in the
 said eighth Year of the Reign of our said
 Lord the King, at the Parish aforesaid, in the
 County aforesaid, in his *Affidavit* aforesaid, be-
 fore

fore the said *John Plaistow*, so as aforesaid, having sufficient Power and Authority to administer the said Oath, to the said *A.C.* in Manner aforesaid, of his wicked Mind, falsely, maliciously, wilfully, and corruptly did commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, in Contempt of our said Lord the King and his Laws, to the great Damage of the said *Benjamin Wright*, and against the Peace of our said Lord the King, his Crown and Dignity.

*For Perjury in an Answer in
Chancery.*

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *Elizabeth Flood*, Widow and Administratrix of all and singular the Goods and Chattels, Rights and Credits of *Thomas Flood*, her late Husband, of *London*, Gentleman, deceased, on the fifteenth Day of *February*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain, France and Ireland*, Defender of the Faith, &c. did exhibit her *English* Bill of Complaint in Writing, in the Court of *Chancery* of our said Lord the King, (the same Court then being at *Westminster*, in the County of *Middlesex*) against one *Henry Turner*, of *London*, Brewer, and *Paul Jarvis*, of the same Place, Apothecary; which said Bill of Complaint was directed to the Right Honourable *Charles Lord Talbot*, Baron of *Hensol*, Lord High-Chancellor of *Great-Britain*: And the said *Elizabeth Flood*, in and by her said Bill of Complaint, among other Things, shewed, That whereas by Indenture of Lease, bearing Date on or about the fourteenth Day of *August*, in the tenth Year of the

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Reign

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Reign of our late Sovereign Lord King *George* the First, and in the Year of our Lord One thousand seven hundred and twenty-three, and made, or mentioned to be made, between *Lawrence Watkins*, of the Parish of *St. Mary le Strand*, in the County of *Middlesex*, Woollen-Draper, of the one Part, and the said *Henry Turner*, of *London* aforesaid, Brewer of the other Part, he the said *Lawrence Watkins*, for and in Consideration of the Sum of twenty-seven Pounds seven Shillings to him paid, by the said *Henry Turner*, did, in and by the said Indenture of Lease, demise, grant, and to farm let, unto the said *Henry Turner*, his Executors, Administrators and Assigns, all that Messuage or Tenement, commonly called or known by the Sign of the *Blue Bell*, situate, lying and being in *Enfield*, in the said County of *Middlesex*, then or late before in the Tenure or Occupation of him the said *Henry Turner*, together with all Rooms, Cellars, Vaults, Yards, Gardens, and Backsides to the same belonging; and also all those three Pieces and Parcels of Land and Meadow-Ground, commonly called and known by the Name of *Adam's Grounds*, adjoining to the said Messuage or Tenement, and then late before in the Tenure or Occupation of *Benjamin Brewer*, his Under-tenants, or Assigns, and all Ways, Waters, Easements, Profits and Commodities whatsoever to the said Messuage or Tenement, Pieces or Parcels of Land, and other the Premises belonging, or in any wise appertaining, or reputed or taken as Part, Parcel, or Member thereof, together with their and every of their Appurtenances, to have and to hold the said Messuage or Tenement, and Pieces or Parcels of Land, and all and singular other the Premises, with the Appurtenances

nances, unto the said *Henry Turner*, his Executors, Administrators and Assigns, from the second Day of *February*, then next ensuing, for and during and unto the full End and Term of Ninety-nine Years thence next ensuing and fully to be compleat and ended, yielding and paying, yearly and every Year, during the said Term, unto the said *Lawrence Watkins* and his Heirs the clear yearly Rent of twenty Pounds six Shillings, to be paid on four Days of Payment in the Year, (that is to say) the first Day of *May*, the first Day of *August*, the first Day of *November*, and the first Day of *February*, during the said Term, by even and equal Portions, free from all Manner of Taxes, or other Deductions whatsoever, as in and by the said last in part receited Indenture of Lease, (Relation being thereunto had) and whereto the said Complainant craved Leave to refer herself, would, when produced to that honourable Court, more fully and at large appear. And the said Complainant further charged, that the said *Henry Turner* being possessed by Virtue of the said Indenture of Lease, of all the Premisses therein mentioned, had sufficient Power and Authority to charge the said Premisses as he thought proper; and accordingly, he the said *Henry Turner*, having Occasion for the Sum of One hundred Pounds, did apply himself to *Margaret Flood*, Spinster, to lend him the same: And the said Complainant further charged, that pursuant to such Application, the said *Margaret Flood* was prevailed upon to advance, and did actually lend the Sum of One hundred Pounds to him the said *Henry Turner*, and that for securing the Repayment thereof with Interest, by Indenture of Mortgage, bearing Date on or about the second Day of *September*, in the twelfth Year of the Reign of our late Sovereign Lord George the First, and in the Year of our

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Lord One thousand seven hundred and twenty-five; and made, or mentioned to be made, between the said *Henry Turner* of the one Part, and the said *Margaret Flood* of the other Part; he the said *Henry Turner*, in Consideration of the Sum of One hundred Pounds so as aforesaid paid by the said *Margaret Flood*, did, in and by the said Indenture of Mortgage, grant, bargain, sell, assign, transfer, and set over unto the said *Margaret Flood*, her Executors, Administrators and Assigns, all and singular, the said Messuage, Lands, and Premises, with their Appurtenances, which he the said *Henry Turner* was possessed of, by Virtue of the aforesaid Indenture of Lease, and all the Estate, Right, Title, Interest, Property, Claim, and Demand whatsoever, of him the said *Henry Turner*, of, in or to the said Premises, unto the said *Margaret Flood*, her Executors, Administrators, and Assigns, for, and during all the Rest and Residue of the said Term of ninety-nine Years, before recited, which was then to come and unexpired, in as large and ample Manner as he the said *Henry Turner*, his Executors, Administrators or Assigns, had or ought to have; Subject nevertheless to a *Proviso* or Condition of Redemption therein contained, to be void on Payment of the said Sum of One hundred Pounds, with the legal Interest thereof, by the said *Henry Turner*, his Executors, Administrators or Assigns, at a certain Day therein mentioned, and long since past, as, in, and by the said Indenture of Mortgage, Relation being thereunto had, and whereto the said Complainant craved leave to refer herself, would, when produced to that honourable Court, more fully and at large appear; and the said Complainant did further set forth, that the said *Margaret Flood*, some Time in the Month of *July*, One thousand seven hundred

hundred and twenty-eight, departed this Life, and died Intestate ; and the said Complainant did further set forth, that whereas by Indenture tripartite, bearing date on or about the second Day of *March*, in the second Year of the Reign of our Sovereign Lord *George* the Second, and in the Year of our Lord, One thousand seven hundred and twenty-eight, and made, or mentioned to be made, between the Reverend *Robert Flood*, of the Parish of *St. Martin in the Fields*, in the said County of *Middlesex*, Doctor in Divinity, Administrator of all and singular the Goods and Chattels of the aforesaid *Margaret Flood*, deceased, of the first Part, the said *Henry Turner*, of the second Part, and the said Complainant's late Husband, *Thomas Flood*, of the third Part ; the said *Robert Flood*, at the Desire, and by the Consent of the said *Henry Turner*, witnessed by his being Party to the same Indenture ; and in Consideration of the Sum of One hundred and ten Pounds, paid to the said *Robert Flood*, by the said *Thomas Flood*, and in Consideration of the further Sum of ten Pounds paid to the said *Henry Turner*, by the said *Thomas Flood*, they, the said *Robert Flood* and *Henry Turner*, did severally grant, assign, and set over unto the said *Thomas Flood*, his Executors and Administrators, the Messuage, Lands and Premises, with their Appurtenances in the herein before-mentioned and recited Indenture of Lease, to hold the said Messuage, Lands and Premises, with their Appurtenances, to the said *Thomas Flood*, his Executors, Administrators and Assigns, for and during the Remainder of the Term of ninety-nine Years then unexpired, subject nevertheless to a Proviso or Condition of Redemption therein mentioned to be void on Payment by the said *Henry Turner*, his Heirs, Ex-

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cutors or Administrators, or any of them, unto the said *Thomas Flood*, his Executors, Administrators or Assigns, of the Sum of One hundred and twenty-six Pounds, at a certain Day therein mentioned, and long since past, as in and by the said recited Indenture tripartite, Relation being thereto had) and whereto the said Complainant craved leave to refer herself, would, when produced to that Honourable Court, more fully appear; and the said Complainant, in and by her said Bill of Complaint, did further shew, That she the said Complainant finding, after the Decease of her said late Husband *Thomas Flood*, that great Arrears of Interest were due and owing for the said Sum of One hundred and twenty Pounds in her said late Husband's Life-time, and that the said Arrears of Interest were at the time of the exhibiting the said Bill of Complaint unpaid, and that the said Premises were but a very scanty Security for the Payment of the whole Sum, both Principal and Interest, then due thereupon, the said Complainant therefore in a friendly manner did apply herself to the said *Henry Turner*, and requested him to pay the said Complainant the said principal Sum of One hundred and twenty Pounds, and Interest due for the same; and the said Complainant in and by her said Bill of Complaint did further set forth, That the said *Henry Turner* combining with the said *Paul Jarvis*, and with divers other Persons to the said Complainant unknown, they the said Confederates set up divers very unjust and unreasonable Pretences, in order to injure and oppress the Complainant, and for that Purpose they sometimes did pretend that the said *Henry Turner* had conveyed the aforesaid Premises to some other Person or Persons for a valuable Consideration, and thereby made an absolute Sale of the same before

fore the same were assigned over to the said Complainant's late Husband, and that at other Times the said Confederates gave out in Speeches, that the said *Henry Turner* had mortgaged the said Premises before to the said *Paul Jarvis*, and that the said *Henry Turner* had only the Equity of Redemption in him when he conveyed the said Premises to the said Complainant's said Husband, and that therefore, if the said Complainant would have any Benefit of the said Premises, the said Complainant must pay off the prior Mortgage : And at other Times the said Confederates pretended, that the Premises are subject to some other Charge or Incumbrances, so that the same are no ways liable to the Demand of the said Complainant ; but refused to discover the Nature of such Incumbrances, or when, or on what Consideration the same were created, or whether such pretended Incumbrances were not subsequent in Time to the said Mortgage or Security made to the said *Margaret Flood* by the said *Henry Turner*, and when or in what Manner the same did arise ; and at other Times the said Confederates pretended, that the said *Henry Turner* had confessed Judgments to divers Persons, to which the said Premises were liable, and the said *Henry Turner* did refuse to pay or satisfy the said Complainant her just Demands, and the said Complainant in her said Bill of Complaint did pray, that the said *Henry Turner* and *Paul Jarvis*, the Defendants aforesaid, might set forth and discover if any and what Incumbrances there were upon the said Premises, other than besides the Complainant's Demands, and in particular what, if any Estate, Right, Title or Interest, he the said *Paul Jarvis*, or any other Person or Persons in Trust for him, had thereto, or to any,

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and what Part thereof, and from what Time such Estate commenced and took place, and on what Consideration the same was obtained or created; and that the said Confederates might set forth and discover all and every other Incumbrances there were upon the Premises, and the Nature and Kind of them, and who, by Name, pretended to claim any Right, Title, or Interest, in or to the said Premises and for what Considerations; and that the said Defendants might set forth the yearly Value of the said Premises, and that the said Defendants might come to a fair and just Account with the said Complainant touching the Particulars aforesaid, and make them Satisfaction for so much as upon a fair Account should appear to be due on the Credit of the aforesaid Premises in a short Day to be fixed by that Honourable Court, or in Default thereof, that the said Defendants might be debared and foreclosed of and from all Right, Title, and Equity of Redemption of, in, and to the said Premises, and every Part and Parcel thereof, as in and by the said Bill of Complaint of the said *Elizabeth Flood* remaining affiled of Record in the said Court of *Chancery* at *Westminster* aforesaid, in the said County of *Middlesex* (among other Things, more fully doth appear: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Paul Jarvis*, who was, and is, one of the Defendants named in the said Bill of Complaint of the said *Elizabeth Flood* afterward, (that is to say) on the twelfth Day of *August*, in the ninth Year of the Reign of our said now Lord the King, at the Parish of *Saint Dunstan in the West*, in the said County of *Middlesex*, came in his own proper Person before *Anthony Allen*, Esquire, then being one of the Masters of

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of the said Court of *Chancery*, and then and there before the said *Anthony Allen*, Esquire, exhibited and produced the Answer in Writing of him the said *Paul Jarvis* to the aforesaid Bill of Complaint of her the said *Elizabeth Flood*, intituled, The seperate Answer of *Paul Jarvis*, Gentleman, one of the Defendants, to the Bill of Complaint of *Elizabeth Flood*, Widow, Complainant, and that the said *Paul Jarvis* being then and there sworn in due Form of Law upon the Holy Gospels of God before the said *Anthony Allen*, Esquire, then being one of the said Masters of the said Court of *Chancery*, and then and there having sufficient Power and Authority to administer an Oath in that Behalf to the said *Paul Jarvis*, he the said *Paul Jarvis* did, upon his corporal Oath, concerning the Matters contained in his said Answer, before the said *Anthony Allen*, then as aforesaid being one of the said Masters of the said Court of *Chancery*, then and there swear, that so much of the said Answer of him the said *Paul Jarvis*, so as aforesaid produced and exhibited before the said *Anthony Allen*, as concerned the Act and Deed of him the said *Paul Jarvis*, he the said *Paul Jarvis* knew to be true, and that so much of the said Answer of him the said *Paul Jarvis*, as concerning the Act and Deed of any other Person, he the said *Paul Jarvis* believed to be true; and the said *Paul Jarvis*, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, and minding and intending unjustly to aggrieve the said *Elizabeth Flood*, the Complainant aforesaid, did then and there upon his Oath aforesaid, in his Answer aforesaid, before the said *Anthony Allen*, then and there being one of the said Masters of the said Court of *Chancery*, knowingly, falsely, wickedly, maliciously, wilfully and corruptly, by his own Act and Consent (among
other

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other Things) answer, swear, and Affirm in Writing as followeth (that is to say) and this Defendant (meaning himself the said *Paul Jarvis*) says, he does not know what the yearly Value of the said Premisses are, (meaning the Value of the Messuage and Lands in the said Bill of Complaint, mentioned and herein also before specified) but hath heard and believes they are of greater yearly Value than the said Rent of twenty Pounds, six Shillings, reserved in and by the said Lease, made to the said *Henry Turner*; and this Defendant (meaning again himself, the said *Paul Jarvis*) says, he (meaning again himself, the said *Paul Jarvis*) never received any of the Rents, Issues, or Profits, of the said Premisses (meaning again the Messuage and Lands in the said Bill of Complaint, mentioned and herein also before specified) and therefore denies, he (meaning again himself, the said *Paul Jarvis*) is any way accountable to the Complainant (meaning the said *Elizabeth Flood*, the Complainant aforesaid) for any the Matters or Things in the Bill mentioned (meaning the aforesaid Bill of Complaint) as by the said Answer of him, the said *Paul Jarvis*, remaining assised of Record in the said Court of Chancery at *Westminster* aforesaid, in the said County of *Middlesex*, (among other Things) more fully doth appear; whereas in Truth and in Fact, at the Time when he the said *Paul Jarvis* so took his Oath aforesaid, in Form aforesaid, he the said *Paul Jarvis* well knew what was the yearly Value of the said Premisses (that is to say) the yearly Value of the said Messuage and Lands in the said Bill of Complaint, mentioned and herein also before specified; and whereas in Truth and in Fact, he the said *Paul Jarvis* at that Time knew the yearly Value of the same Premisses to be thirty-eight Pounds; and whereas

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in Truth and Fact, before he the said *Paul Jarvis* took his Oath aforesaid, in Form aforesaid, he the said *Paul Jarvis* had received some of the Rents, Issues, Profits of the said Premises (that is to say) of the Messuage and Lands in the said Bill of Complaint mentioned and herein also before specified; and whereas in Truth and in Fact, he the said *Paul Jarvis*, on the twenty-first Day of *May*, in the said eighth Year of the Reign of our said now Lord the King, at *Endfield* aforesaid, in the said County of *Middlesex*, did receive of *John Pond*, then being one of the Under-tenants of Part of the same Premises, the Sum of fourteen Pounds, fourteen Shillings and three Pence, in Money, and did then allow him the said *John Pond* a Bill of Repairs of three Pounds, five Shillings, and three Pence, in Full for one Year's Rent for Part of the same Premises, ending at *Christmas* then last past: And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *Paul Jarvis*, on the said twelfth Day of *August*, in the said ninth Year of the Reign of our said now Lord the King, at the said Parish of *Saint Dunstan in the West*, in the said County of *Middlesex*, before the said *Anthony Allen*, then being one of the said Masters of the said Court of *Chancery*, and then and there having sufficient Power and Authority to administer the aforesaid Oath to the said *Paul Jarvis*, did knowingly, falsely, wickedly, maliciously and corruptly, in Manner and Form aforesaid, commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said now Lord the King, his Crown and Dignity.

For

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For Perjury on a Trial of an Issue at the Sitzings at Westminster.

Middlesex. **T**HE Jurors of our Lord the King upon their Oath present, That formerly, to wit, in the Term of Saint Michael, in the fourth Year of the Reign of our Sovereign Lord George the Second, King of Great-Britain, &c. in the Court of our said Lord the King, before the King himself (the same Court then being at *Westminster*, in the County of *Middlesex*) amongst the Pleas of the said Term, on the twenty-sixth Day of *October* in that same Term, *Simon Pattinson*, by *Robert Simpson* his Attorney, impleaded *Benjamin Shelly* present there in Court the same Day, of a Plea of Trespass on the Case, for that, Whereas the said *Benjamin*, on the first Day of *October* in the Year of our Lord One thousand seven hundred and thirty, at *Westminster* in the said County of *Middlesex*, was indebted, to the said *Simon* in thirty-nine Pounds of lawful Money of *Great Britain*, for divers Goods, Wares and Merchandizes, by the said *Simon* to the said *Benjamin* before that Time sold and delivered at the special Instance and Request of the said *Benjamin* and being so indebted, the said *Benjamin*, in Consideration thereof afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, took upon himself, and to the said *Simon* then and there faithfully promised, that he the said *Benjamin* the said thirty-nine Pounds to the said *Simon* would well and truly pay and content, when he should afterwards be thereunto required: And, whereas also the said *Benjamin* afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, was indebted

debted to the said *Simon* in the further Sum of thirty-nine Pounds of like lawful Money of *Great Britain*, for divers other Goods, Wares and Merchandizes, by the said *Simon* to the said *Benjamin*, before that Time also sold and delivered at his like special Instance and request and being so indebted the said *Benjamin* in Consideration thereof afterwards, to wit, the same Day and Year last mentioned, at *Westminster* afore said, in the County afore said, took upon himself, and to the said *Simon* then and there faithfully promised, that he the said *Benjamin* would well and truly pay and content to the said *Simon* so much Money for the said last mentioned Goods, Wares and Merchandizes, as the same were reasonably worth at the Time of the Sale and Delivery thereof, when he should be afterwards thereunto required: And the said *Simon* in fact said, that the said last mentioned Goods, Wares and Merchandizes, so sold and delivered to the said *Benjamin* by the said *Simon* as afore said, were, at the Time of the Sale and Delivery thereof, reasonably worth other thirty-nine Pounds of like lawful Money, that is to say at *Westminster* afore said, in the County afore said of which the said *Benjamin* afterwards, to wit, the same Day and Year last afore said, at *Westminster* afore said, in the County afore said, from the said *Simon* had Notice: And, whereas also the said *Simon* afterwards, to wit, the same Day and Year last mentioned, at *Westminster* afore said, in the County afore said, had accounted, together with the said *Benjamin*, of and concerning divers other Sums of Money from the said *Benjamin* to the said *Simon* before that Time due and owing, and then in Arrear and unpaid, and upon such Account the said *Benjamin* was then and there found to be in Arrear to the said *Simon* in the further Sum of thirty-nine Pounds of like lawful Money; and being

ing so found in Arrear, the said *Benjamin* afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, took upon himself, and to the said *Simon* then and there faithfully promised, that he the said *Benjamin* the said last mentioned Sum of thirty-nine Pounds to the said *Simon* would well and truly pay and content, when he the said *Benjamin* should be afterwards thereunto required: Nevertheless the said *Benjamin*, in no wise regarding his several Promises and Undertakings aforesaid, but contriving and fraudulently intending the said *Simon* in that Particular unjustly to deceive and defraud, the said several Sums of Money or any Part thereof to the said *Simon* had not paid, nor in any Manner contented him for the same, (altho' to do this the said *Benjamin*, on the same Day and Year last aforesaid, at *Westminster* aforesaid, in the County aforesaid, by the said *Simon* had been requested) but had thitherto absolutely refused, and then did refuse so to do, to the Damage of the said *Simon* of One hundred Pounds; and therefore he brought that Suit, and that afterwards, to wit, on *Monday* next after the Octave of *St. Hilary*, in the said fourth Year of the Reign of our said now Lord the King, until which Day the said *Benjamin Shelley* had Licence to imparle to the aforesaid Bill of the said *Simon*, and then to answer, &c. before our said Lord the King at *Westminster*, came the aforesaid *Benjamin Shelley* by *Henry Parr* his Attorney, and defended the Force and Injury when and so forth, and said, that he did not assume upon himself in Manner and Form, as the said *Simon*, by his said Bill had complained against him, and concerning that did put himself upon his Country, and the aforesaid *Simon Pattinson* did the same; whereupon it was in such wise proceeded between the

the Parties aforesaid, in the said Court upon the Issue aforesaid, that afterwards, to wit, on the fourteenth Day of *February*, in the said fourth Year of the Reign of our said Lord the King, before *Robert*, Lord *Raymond*, then Chief Justice of our said Lord the King, assigned to hold Pleas before the King himself at *Westminster* aforesaid, in the *Great Hall* of Pleas, there vulgarly called *Westminster-Hall*, by the Form of the Statute and so forth, the same Issue came to be tried, and then and there was tried by a Jury of the Country, in that Behalf taken between the Parties aforesaid, as by the Record thereof, now remaining affixed in the said Court of our said Lord the King, before the King himself at *Westminster* aforesaid, in the said County of *Middlesex*, doth more fully and at large appear. And the Jurors aforesaid, now here sworn and charged to inquire for our said Lord the King, for the Body of the said County of *Middlesex*, upon their Oath aforesaid, do further present, That *Zachary Adams*, late of the Parish of *St. Margaret*, *Westminster*, in the said County of *Middlesex*, Yeoman, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, and minding and intending unjustly to aggrieve the said *Benjamin Shelley*, the Defendant above-named, and wickedly to cause and procure a Verdict to pass against the said *Benjamin Shelley*, on the said Issue so joined as aforesaid, and thereby to make the said *Benjamin Shelley* liable to the Payment of great Sums of Money, he the said *Zachary Adams*, on the said fourteenth Day of *February*, in the Year aforesaid, at *Westminster* aforesaid, to wit, at the said Parish of *St. Margaret*, *Westminster*, in the County aforesaid, came before the said *Robert*,
Lord

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Lord *Raymond* then as aforesaid, being Chief Justice of our said Lord the King, assigned to hold Pleas before the King himself, and then and there before the said *Robert*, Lord *Raymond*, he the said *Zachary Adams* did take his corporal Oath upon the holy Gospels of God, to speak the Truth, the whole Truth, and nothing but the Truth, of and upon the Premises in the said Issue so as aforesaid joined (he the said *Robert*, Lord *Raymond*, then and there having sufficient Power and Authority to Administer an Oath to the said *Zachary Adams* in that Behalf) and the said *Zachary Adams* so being sworn, he the said *Zachary Adams*, then and there before the said *Robert*, Lord *Raymond*, Chief Justice aforesaid, falsely, corruptly, wilfully, and maliciously did say, depose, and give Evidence to the Jurors of the said Jury so as aforesaid, taken between the Parties aforesaid, that he (meaning himself the said *Zachary Adams*) on the tenth Day of *November* last, (meaning the tenth of *November*, in the said fourth Year of the Reign of our said Lord the King) was at the House of one Mr. *Mills* at *Islington* (meaning the House of one *John Mills* at *Islington*, in the County of *Middlesex*) and that he (again meaning himself the said *Zachary Adams*) did see the Defendant (meaning the said *Benjamin Shelley*) there, and he (again meaning himself the said *Zachary Adams*) did then deliver an Account in Writing (meaning an Account between the said *Simon Pattinson* and the said *Benjamin Shelley*) and the said *Benjamin Shelley* did then accept of the same Account, and sayed, he (meaning the said *Benjamin Shelley*) would consider thereof, and immediately afterwards (meaning the said tenth Day of *November*) he (again meaning the said Defendant) did acknowledge the Account (meaning the Account aforesaid) and

and that he (again meaning the said *Benjamin Shelley*) owed *Mr. Pattinson* (meaning the said *Simon Pattinson*) thirty-nine Pounds; whereas in Truth and in Fact, the said *Benjamin Shelley*, on the tenth Day of *November* last, was not at the House of *Mr. Mills* at *Islington*; and whereas in Truth and in Fact, the said *Zachary Adams* did never deliver any Account in Writing to the said *Benjamin Shelley*; and whereas in Truth and in Fact, the said *Benjamin Shelley* did never acknowledge any Account between him the said *Simon Pattinson*, and the said *Benjamin Shelley*, or that he owed the said *Simon Pattinson*, thirty-nine Pounds, or any Sum of Money whatsoever; and whereas in Truth and in Fact, the said *Benjamin Shelley* never had any Discourse with the said *Zachary Adams* concerning any Account whatsoever. And so the Jurors aforesaid, now here sworn and charged to inquire for our said Lord the King, for the Body of the said County, upon their Oath aforesaid, do say, that the said *Zachary Adams*, on the said fourteenth Day of *February*, in the Year aforesaid, at the said Parish of *St. Margaret Westminster*, in the County aforesaid, before the said *Robert, Lord Raymond*, Chief Justice aforesaid, (he the said *Robert, Lord Raymond*, then and there having sufficient Power and Authority to administer the said Oath to the said *Zachary Adams* in Form aforesaid) did in Manner and Form aforesaid, commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Perjury is a corrupt and voluntary false Oath.

This Offence must be wilful; no one ought to be found guilty thereof with- 5 Mod. 350.

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out clear Proof, that the false Oath alledged against him was taking with some Degree of Deliberation; for if upon the whole Circumstances of the Case it shall appear probable, that it was owing rather to Weakness than Perverseness of the Party, as where it was occasioned by Surprize, or Inadvertency, or a Mistake of the true State of the Question, it cannot but be hard to make it amount to voluntary and corrupt Perjury, which is of all Crimes whatsoever the most infamous and detestable.

Cro. El. 168.

169.

Noy 128.

2 Roll. Ab. 157.

Hob. 62.

It seems to be clearly agreed, that all such false Oaths as are taken before those who are any Ways intrusted with the Administration of public Justice, in Relation to any Matter before them

in Debate, are properly Perjuries; and it seems to have been holden by some, that all such false Oaths as are taken before Persons authorized by the King to examine Witnesses in Relation to any Matter whatsoever, wherein his Honour or Interest are concerned, are also punishable as Perjuries. Not only such Persons are indictable for Perjury, who take a false Oath in a Court of Record, upon an Issue therein joined, but also all those who forswear themselves in a Matter judici-

Cro. El. 907.

1 Sid. 418.

1 Rol. Ab. 40.

Pl. 16, 17, 18.

20, 21.

5 Mod. 348.

Cro. Elz. 185,

609.

2 Rol. Rep. 410.

1 Rol. Ab. 40.

Pl. 12.

ally depending before any Court of Equity, or Spiritual Court, or any other lawful Court, whether the Proceedings therein be of Record or not, or whether they concern the Interest of the King, or Subject. And 'tis said to be no Way material, whether such false Oath be taken in the Face of the Court, or before Persons authorized by it to examine a Matter, the Knowledge whereof is necessary for the right Determination

termination of a Cause; and therefore a false Oath before a Sheriff, upon a Writ of Inquiry of Damages, is as much punishable as if it were taken before the Court on the Trial of a Cause.

It is said not to be material whether the Fact which is sworn, be in itself true or false, for howsoever the Thing sworn may happen to prove agreeable to Truth; yet if it were not known to be so by him who swears to it, his Offence is altogether as great as if it had been false, inasmuch as he willfully swears, that he knows a Thing to be true, which, at the same Time, he knows nothing of.

Pal. 294.
Hetley 97.
2 Rol. Ab. 77.
Pl. 5.
3 Inst. 166.

No Oath shall amount to Perjury, unless it be sworn absolutely and directly; and therefore, he who swears a Thing according as he thinks, remembers or believes, cannot, in Respect of such an Oath, be found guilty of Perjury.

3 Inst. 166.

By the Stat. 5 Eliz. c. 9. Sect. 6. That if any Person or Persons, by their own Act, Consent, or Agreement, wilfully and corruptly commit any Manner of wilful Perjury, by his or their Deposition in any of the Courts, therein mentioned, or being examined ad perpetuam rei memoriam, that then every Person and Persons so offending, and being thereof duly convicted, or attainted by the Laws of this Realm, shall, for his or their said Offence, lose and forfeit Twenty Pounds, and to have Imprisonment for the Space of Six Months, without Bail or Mainprize; and the Oath of such Person or Persons so offending, from thenceforth not to be received in any Court of Record within this Realm of England or Wales, or the Marches of the same, until such Time as the Judgment given against such Person or Persons shall be reversed by Attaint or otherwise; and that upon every such

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Reversal, the Parties grieved to recover his or their Damages against all and every such Person or Persons as did procure the said Judgment so reversed to be given against them, or any of them, by Action or Actions, to be sued upon his or their Case or Cases, according to the Course of the common Laws of this Realm.

And if it shall happen, the said Offender or Offenders so offending, not to have any Goods or Chattels to the Value of Twenty * Pounds, that then he or they to be set on the Pillory, in some Market-Place, within the Shire, City, or Borough, where the said Offence shall be committed, by the Sheriff or his Ministers, if it shall fortune to be without any City or Town-Corporate; and if it shall happen to be within such City or Town-Corporate, then by the Head Officer or Officers of such City or Town-Corporate, or by his or their Ministers, and there to have both his Ears nailed, and from thenceforth be discredited and disabled for ever to be sworn in any of the Courts of Record aforesaid, until such Time as the Judgment shall be reversed, and thereupon to recover his Damages in Manner and Form before mentioned.

One Moiety of the Forfeiture to the Queen, her Heirs, and Successors, the other to the Party grieved, &c. that will sue for the same.

As well the Judge and Judges of every of the Courts where any such Suit is or shall be, and whereupon any such Perjury is or shall be committed, as also the Justices of Assise and Gaol Delivery in their several Circuits, and the Justices of the Peace in every County within this

* The Authority to punish Perjury given by the Stat. 11 Hen. 7. c. 25. saved.

Realm, or in Wales, at their general Quarter Sessions, both within Liberties and without, shall have full Power to inquire of all Offences committed contrary to this Act by Inquisition, Presentment, Bill, or Information, or otherwise, lawfully to hear and determine the same, and to give Judgment, Award, Process, and Execution of the same, according to the Course of the Laws of this Realm.

And by the Stat. 2. Geo. 2. c. 25. 'tis enacted, That, besides the Punishment already to be inflicted by Law for so great Crimes, it shall and may be lawful for the Court or Judge, before whom any Person shall be convicted of wilful and corrupt Perjury, or Subornation of Perjury, according to the Laws now in being, to order such Person to be sent to the House of Correction, within the same County, for a Time not exceeding seven Years, there to be kept to hard Labour during all the said Time, or otherwise to be transported to some of his Majesty's Plantations beyond the Seas, for a Term not exceeding seven Years, as the Court shall think most proper, and thereupon Judgment shall be given, That the Person convicted shall be committed, or transported accordingly, over and beside such Punishment as shall be adjudged to be inflicted on such Person, agreeable to the Laws now in being; and if Transportation be ordered, the same shall be executed in such Manner as is or shall be provided by Law for the Transportation of Felons; and if any Person so committed or transported, shall voluntarily escape or break Prison, or return from Transportation, before the Expiration of the Time for which he shall be ordered to be transported as aforesaid, such Person being thereof lawfully convicted, shall suffer Death as a Felon, without Benefit of Clergy, and shall be

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tried for such Felony in the County where he so escaped, or where he shall be apprehended.

This Act made perpetual by the 9 Geo. 2.

Perjury punishable upon Confession, without Indictment or Information.

FOR the clear Understanding of the Stat. 5 Eliz. c. 9. it may be proper to set forth the following Case.

The King against Thorogood. Trin. 9 Geo. 1.

THE Defendant having made an Affidavit in the Court of Common Pleas, and the Truth thereof being controverted, he was ordered to appear in Court, and accordingly did appear in Easter Term last, and confessed, that he made the Affidavit, and that it was false.

Whereupon the Court recorded his Confession, and ordered, that he should be taken into Custody, and put into the Pillory for Perjury.

And now it was insisted on by his Council, That this could not be done upon his own Confession, because 'tis not a Conviction, but only Matter of Evidence, for he ought judicially to be brought before the Court by Indictment, and therefore his Confession ought not to have been recorded; besides, the Court of Common Pleas hath no Jurisdiction in Criminal Cases, and therefore if it had appeared on Record, that the Defendant was perjur'd, that Court could not have punished him.

è contra.

To argue, that a Criminal shall not be convicted on his own Confession, is not only a new, but very strange Doctrine, because the Confession of a Crime is the strongest Evidence of Guilt.

'Tis

'Tis likewise very strange to object, that the Court of Common Pleas hath no Jurisdiction in this Case, because the Punishment by Pillory is by Virtue of the Statute of 5 Eliz. and the Court having given Sentence accordingly, shews, that they proceeded on that Statute, by which, Power is given to any Court where the Perjury is committed, to punish the Offender; so that 'tis plain the Court hath a Jurisdiction, especially since 'tis provided by that very Statute, that it shall not extend to any Ecclesiastical Court, which being a Negative pregnant, is a full Proof, that all other the King's Courts may punish such Offenders, and even those who shall be convicted by their own Confession; for the Statute gives Power to hear and determine by Inquisition, Information, Bill, Presentment, or otherwise, and to give Judgment, and award Execution, &c. Now by the Word Otherwise, the Confession of the Party may be intended: Besides, if that Court cannot punish the Defendant by Virtue of the Statute 5 Eliz. he might be punished at common Law; for Perjury is an Offence, at common Law, and any Court may punish such a Criminal for an Offence committed in Facie Curie, which was the better Opinion in Bushell's Case, tho' Vaughan, doubted it. But notwithstanding what was said by the Defendant's Council; he was put in the Pillory the last Day of Term.

Subornation of PERJURY.

*For endeavouring to suborn a Person
to give Evidence on a Trial at the
Assises.*

Shire. **T**H E Jurors for our Lord the King upon their Oath present, That formerly, to wit, in the Term of *St. Hilary* in the fifth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great-Britain, &c.* in the Court of *Exchequer* of our said Lord the King (the said Court then being at *Westminster* in the County of *Middlesex* before the Barons of the said *Exchequer* of our said Lord the King, amongst the Pleas of the said Term, on the twenty-fourth Day of *January*, in that Term, *Thomas Goffe*, then a Debtor of our said Lord the King, did by *Thomas Lloyd* his Attorney, implead *Thomas Edwards* present their in Court the same Day, of a Plea of *Trespas* and *Affault*, for that, to wit, that the aforesaid *Thomas Edwards*, on the twenty-eighth Day of *November*, in the Year of our Lord One thousand seven hundred and thirty-one, with Force and Arms, to wit, with Swords, Staves, and Knives, upon him the said *Thomas Goffe*, at *Wrexham*, in the County of *Denbigh*, did make an *Affault*, and him the said *Thomas Goffe* then and there did beat, wound and ill-treat, so that of his Life it was greatly dispaired, and other Wrongs to him did, to the great Damage of the said *Thomas Goffe*, and against the Peace of our said Lord the King; wherefore the said *Thomas Goffe* did say, that he was rendred worse and had Damage to the Value of One hundred Pounds

so that he could not satisfy our said Lord the King the Debts which he owed to our said Lord the King, at his said *Exchequer*, and thereupon he brought Suit, and so forth; and the aforesaid *Thomas Edwards*, by *Richard Marriott* his Attorney came and defended the Force and Injury when and so forth, and said that he was not guilty of the Trespass and Assault aforesaid, and concerning that did put himself upon his Country, and the aforesaid *Thomas Goffe* in like Manner; whereupon it was in such wise proceeded between the Parties aforesaid, in the said Court, upon the Issue aforesaid, that afterward, to wit, on the sixteenth Day of *March*, in the said fifth Year of the Reign of our said now Lord the King, at *Salop* in the County of *Salop* (being the next *English* County adjoining to the said County of *Denbigh*) before *James Reynolds*, Esq; Chief Baron of the *Exchequer* of our said Lord the King, and Sir *John Fortescue Aland*, Kt. one of the Justices of our said Lord the King, of the Court of *Common-Pleas*, then Justices of our said Lord the King assigned to take the Assises in the aforesaid County of *Salop*, by the Form of the Statute and so forth, the same Issue came to be tried by a Jury of the Country in that Behalf, taken between the said Parties (which said Issue ought to have been tried by the Men of the said County of *Salop*, as being the next *English* County adjoining to the said County of *Denbigh* as aforesaid) as by the Record thereof now remaining in the said Court of *Exchequer* at *Westminster* aforesaid, doth more fully appear. And the Jurors aforesaid, now here sworn and charged to inquire for our said Lord the King, for the Body of the said County of *Salop*, upon their Oath aforesaid, do further present, That before the Trial of the said Issue, and during the Time the same was depending, to wit, on the

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the fifteenth Day of *March*, in the Year last above-mentioned; *Hannab*, the Wife of the afore-said *Thomas Goffe*, late of *Holliwell*, in the County of *Flint*, Grocer, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, and minding and intending unjustly to aggrieve the said *Thomas Edwards*, the Defendant above-named, and wickedly to cause and procure the said *Thomas Edwards* to be convicted of the Trespass and Assault in the Declaration aforesaid, above specified, and to subject him to the Payment of great Sums of Money, for Damages and Costs to be recovered against him in the said Suit at *Salop* aforesaid, in the said County of *Salop*, did unlawfully and wickedly solicit, instigate, and as much as in her lay, endeavour to persuade one *Margret Tufen*, Spinster, to be and appear as a Witness on the Part and Behalf of the said *Thomas Goffe*, the Plaintiff aforesaid, at the Trial of the said Issue so as aforesaid joined, and upon the same Trial falsely to swear and give in Evidence to the Jurors of the Jury of the County, of and concerning the said Assault, by the above-mentioned Declaration, supposed to have been done and committed by the said *Thomas Edwards* upon the said *Thomas Goffe*, and of and concerning the Consequence of such supposed Assault, to the Purport and Effect following, that is to say, that the Face of the said *Thomas Goffe* was blue after the Blow; whereas in Truth and in Fact, the Face of the said *Thomas Goffe* was not blue, nor any Ways changed in Colour, by Reason of any Blow he had received from the said *Thomas Edwards*, nor did he the said *Thomas Edwards* ever assault the said *Thomas Goffe* or give him the said *Thomas Goffe* any Blow, so as to cause

Subornation of Perjury. 363

cause the Face of the said *Thomas Goffe* thereby to become blue, or any Ways changed in Colour; but in Truth and in Fact, the said *Hannah Goffe*, at the Time she so solicited, instigated, and endeavoured to persuade the said *Margaret Tuson* to swear and give in Evidence as is aforesaid, had caused the Face of the said *Thomas Goffe* to be stained with Ink, to wit, at *Salop* aforesaid, in the same County of *Salop*, and she the said *Hannah* did thereupon, then and there tell the said *Margaret*, that she the said *Margaret* might safely swear the Face of the said *Thomas Goffe* was Blue after the Blow, in Contempt of our said Lord the King and his Laws, to the manifest Subversion of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Subornation of Perjury, by the common Law, seems to be an Offence in procuring a Man to take a false Oath amounting to Perjury, who actually takes such Oath; but it seems clear, that if the Person incited to take such an Oath do not actually take it, the Person by whom he was so incited is not guilty of Subornation; yet it is certain, that he is liable to be punished not only by Fine, but also by infamous, corporal Punishment.

By the Stat. 5 Eliz. c. 9. 'Tis enacted, that whoever shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any wilful or corrupt Perjury, in any Matter or Cause whatsoever depending in Suit and Variance, by
any

1 Rol. Ab. 41.
Pl. 21, 57.
Pl. 5. 79.
Pl. 2. Yelv. 72.
Cro. Ja. 158.
Cro. Ca. 337.
2 Keb. 399.
3 Mod. 120.

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any Writ, Action, Bill, Complaint or Information, in any wise concerning any Lands, Tenements or Hereditaments, or Goods, Chattels, Debts or Damages, in any of the King's Courts of Chancery, Whitehall, or elsewhere, within any of the King's Dominions of England or Wales, or the Marches of the same where any Person or Persons shall have Authority by Virtue of the King's Commission, Patent or Writ to hold Plea of Land, or to examine, bear, or determine any Title of Lands, or any Matter or Witnesses concerning the Title, Right, or Interest of Lands, or any Matter or Witnesses concerning the Title, Right or Interests of any Lands, or Tenements, or Hereditaments, or in any of the King's Courts of Record, or in any Leet, View, or Frank Pledge, or Law Day, Ancient Demesne Court, Hundred Court, Court Baron, or in the Court or Courts of the Stannery in the Counties of Devon or Cornwall, or shall unlawfully and corruptly procure, or suborn any Witness or Witnesses who shall be sworn to testify in Perpetuam rei Memoriam, shall, for such Offence, being thereof lawfully convicted, or attainted, forfeit the Sum of forty Pounds, and if any such offender to being convicted &c. shall not have Goods or Chattles, Lands or Tenements to the Value of forty Pounds, that then every such Person shall suffer Imprisonment by the Space of one half Year, without Bail or Mainprise, and stand upon the Pillory the Space of one whole Hour, in some Market-Town, next adjoining to the Place where the Offence was committed, in open Market there, or in the Market-Town itself, where the Offence was committed.

That no Person being so convicted, &c. shall from thenceforth be received as a Witness in any Court of Record, &c. 'till such Judgment against him

him shall be reversed by attain, or otherwise, and that upon every such Reversal, the Party grieved shall recover Damages against the Party who did procure the said Judgment so reversed to be first given, &c.

Also by the same Statute Subornation of Perjury is punishable as wilful Perjury.

And by the Stat. 2 Geo. 2. c. 25. against Forgery, and Perjury, &c. (which is revived and made perpetual by Stat. 9. Geo. 2. c. 18.) the Court of King's Bench, &c. proceeding upon an Indictment or Information of Perjury, or Subornation of Perjury, at Common Law, may not only set a discretionary Fine on the Offender, but also condemn him to the Pillory, without making any Inquiry concerning the Value of his Lands or Goods. See Perjury antea.

P O I S O N.

Against a Servant for putting a large Quantity of Corrosive Mercury Sublimate into a Tea-Kettle of Water, with an Intent to poison her Master.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *Ann Griffith*, late of the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex*, Spinster, being a Person of a wicked Mind and Disposition, and maliciously intending to poison one *Isaac Malegne*, of the said Parish of *St. Martin* in the *Fields*, in the said County of *Middlesex*, Apothecary, her Master, on the first Day of *June*, in the seventh Year of the

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the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c at the Parish aforesaid, in the County aforesaid, did knowingly, wilfully, and maliciously, put a large Quantity of Corrosive Mercury Sublimate (being a deadly Poison) into a Tea-Kettle filled with Water (which Water, he, the said *Isaac Malegne*, had, then and there immediately before, directed the said *Ann* to boil, in order to make a certain Liquor, called *Tea*, for his own Drinking) and the said *Ann* did, then and there knowingly, wilfully, and maliciously, boil the said Corrosive Mercury Sublimate in the said Water, and the same Water, in which the said Corrosive Mercury Sublimate was so boiled as aforesaid, did immediately afterwards, to wit, the same Day and Year, there delivered to the said *Isaac Malegne*, her said Master, to use for the making of the aforesaid Liquor, called *Tea*; and the said *Isaac Malegne*, not knowing the said Corrosive Mercury Sublimate to have been in the said Water, did use the same in making the said Liquor, called *Tea*, and did drink a Quantity of the same, made with the said Water, wherein the said Corrosive Mercury Sublimate was so boiled as aforesaid, whereby the said *Isaac Malegne* became variously distempered in his Body, and was in extreme Danger of losing his Life, to the great Damage of the said *Isaac Malegne*, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For putting White Arsenick into Brandy, and giving it to a Person to drink.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Theophilus Bradford*, late of the Parish of *Staines*, in the County of *Middlesex*, Yeoman, *Edward Saunders*, late of the same Yeoman, and *Robert Saunders*, late of the same Yeoman, contriving and intending to hurt and damage the Body of *Ann Osman*, Widow, on the twelfth Day of *April*, in the eighth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, wickedly, and knowingly, did mix Poison, to wit, White Arsenick, with Brandy, and the same Poison, mixed with Brandy, as aforesaid, afterwards, to wit, the same Day and Year above-mentioned, with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully and knowingly, did give to the said *Ann* to drink; and the said *Ann*, not knowing the said Poison to have been mixed with the Brandy as aforesaid, she, the said *Ann*, did, then and there drink and swallow the Poison, mixed with the Brandy, as aforesaid, by which the said *Ann*, of the Poison aforesaid, then and continually afterward, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, was, and yet is, variously distempered and weak in her Body, to the great Damage of the said *Ann*, and against the Peace of our said Lord the King, his Crown and Dignity.

P O O R

P O O R.

For bringing a poor Woman into a Parish where she had no Settlement, and where she instantly died, so that the Parish was put to Expence in burying her.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Adam Brown*, late of the Parish of *St. Andrew Helbourn*, in the County of *Middlesex*, Yeoman, devising and intending the Inhabitants of the same Parish with the Maintenance of one *Elizabeth Collins*, Spinster, unjustly to charge, on the second Day of *May*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, her the said *Elizabeth Collins*, then being poor and impotent, and unable to maintain herself, and then not having any legal Settlement within the same Parish, violently, unlawfully, and unjustly, and without any legal Warrant or Authority, did bring, convey, and leave, and cause and procure to be brought, conveyed, and left, in the same Parish, to be kept and maintained at the Charge of the Inhabitants of the same Parish, which said *Elizabeth Collins* afterwards, and so soon as she was brought by the said *Adam Brown* into the said Parish as aforesaid, did there instantly die, by reason whereof the Inhabitants of the said Parish were obliged to expend, and did expend, the Sum of five Shillings of lawful Money of *Great Britain*, in and about the Burial of the said *Elizabeth Collins*, to the great

great Damage of the said Inhabitants, and to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Lodging an Inmate, who was delivered of a Bastard Child which became chargeable to the Parish.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Elizabeth Dickens*, late of the Parish of *St. Andrew Holbourn*, in the County of *Middlesex*, Widow, on the fourteenth Day of *December*, in the seventh Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain, France, and Ireland*, Defender of the Faith, devising and intending the Inhabitants of the Liberty above the Bars, in the same Parish and County, with the Maintenance of one *Martha Rosamond*, and of a certain Bastard Child, with which the said *Martha* was then pregnant, unjustly to charge and burthen, she the said *Elizabeth*, on the same Day and Year, at the Parish aforesaid, in the County aforesaid, to wit, in the same Liberty, in the Dwelling-House of her the said *Elizabeth*, there situate, unlawfully did receive and lodge, as an Inmate, the said *Martha Rosamond*, so being pregnant with a Bastard Child as aforesaid, and also being poor and unable to maintain herself, and not having any legal Settlement in the said Liberty; and that she the said *Elizabeth*, her, the said *Martha*, an Inmate, in the same Dwelling-House, in the

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Liberty aforesaid, in the same Parish and County, from the said fourteenth Day of *December*, in the Year aforesaid, until the fifteenth Day of *February*, in the Year aforesaid, unlawfully did continue, during which Time, to wit, on the twenty ninth Day of *December*, in the Year aforesaid, the said *Martha*, at the Liberty aforesaid, in the same Parish and County aforesaid, did bring forth a Male Bastard Child, and the Inhabitants of the same Liberty, have, during the Time aforesaid, been thereby compelled to expend divers Sums of Money, amounting in the Whole to the Sum of four Pounds, ten Shillings, in Relief and Maintenance of the said *Martha* and her Bastard Child, to the great Damage of the Inhabitants of the said Liberty, to the evil Example of all others in the like Case Offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Lodging a poor Person, who became a Charge to the Parish.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Elizabeth Carr*, late of the Parish of *St. George the Martyr*, in the County of *Middlesex*, Widow, on the sixth Day of *May*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, in the Dwelling-House of her the said *Elizabeth Carr*, there situate, unlawfully did receive and lodge one *Sarah Gower*, an Inmate (the said *Sarah Gower* then being poor and unable to maintain herself, and then not having any legal Settlement in

in the said Parish) and that she, the said *Elizabeth Carr*, her, the said *Sarah Gower*, an Inmate, in the same Dwelling-House, in the Parish aforesaid, in the County aforesaid, from the first Day of *October*, in the Year aforesaid, until the first Day of *January* then next following, unlawfully did continue, whereby the said Parish was obliged and compelled to expend, and lay out divers great Sums of Money, to wit, the Sum of forty Shillings for Relief and Maintenance of the said *Sarah Gower*, to the great Damage of the Inhabitants of the same Parish, and against the Peace of our said Lord the King, his Crown and Dignity.

P R I S O N.

Assisting a Prisoner to escape out of Prison, charged with a Forfeiture to the King, upon a Writ issued out of the Exchequer.

Surry. **T**H E Jurors for our Lord the King upon their Oath present, That heretofore, to wit, on the twentieth Day of *November*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain, &c.* there issued out of the Court of *Exchequer* of our Lord the King (the said Court then being at *Westminster*, in the County of *Middlesex*) a certain Writ of our said Lord the King, directed to his then Sheriff of his County of *Surry*, by which said Writ our said Lord the King commanded the said Sheriff that

The Recital of the Writ.

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he should not omit by Reason of any Liberty, but enter the same, and take *John Rowe*, by his Body, wheresoever he the said Sheriff should find him within his Bailiwick, and him safely and securely keep, so that he the said Sheriff might have his Body before the Barons of the *Exchequer* of our said Lord the King at *Westminster*, on the twenty-ninth Day of *November*, then following, to answer to our said Lord the King concerning certain Articles whereof he was impeached, on a certain Information, exhibited before the said Barons of our said Lord the King by his Attorney General, for a Forfeiture of two thousand three hundred thirty and two Pounds, for an Offence in the Information aforesaid mentioned, and further to do and receive in the Premises, what the said Court then and there should see fit to order, and that the said Sheriff should have then and there that Writ; and the said Writ afterwards, and before the Return of the same Writ, to wit, on the twenty-fourth Day of the same Month of *November*, in the Year aforesaid, at the Parish of *St. George, Southwark*, in the said County of *Surry*, was delivered to *Percival Lewis, Esq;* then Sheriff of the County of *Surry* aforesaid, in due Form of Law to be executed, by Vertue of which said Writ, he, the aforesaid *John Rowe*, was then and there taken and imprisoned by him the said Sheriff, in the Gaol of our said Lord the King, commonly called the *New Gaol* in *Southwark*, situate in the Parish of *St. George, Southwark*, aforesaid, in the County of *Surry* aforesaid, to answer to our said Lord the King, of and concerning the Premises in the said Writ above specified: And the Jurors aforesaid, upon their Oath aforesaid, do
further

further present, That the said *John Rowe*, being so in the said Gaol in Custody as aforesaid, for the Cause aforesaid, one *Robert Wilson*, late of the Parish of *St. George, Southwark* aforesaid, in the said County of *Surry*, Blacksmith, well knowing the

*Defendant's
Name and Ad-
dition.*

Premises, but being a Person of an evil Mind and wicked Disposition, and contriving and intending to procure the Escape of him the said *John Rowe*, out of the said Gaol, afterward, to

*The Day and
Year the Offence
was committed.*

wit, on the sixth Day of *December*, in the eighth Year of the Reign of our said Lord the King, at the Parish and County last above-mentioned, with Force and Arms, unlawfully, knowingly, and advisedly, did bring, and cause to be brought, and delivered to the said *John Rowe* (then

*The Name of the
Sheriff when the
Offence was com-
mitted.*

and there being in the Gaol aforesaid, in the Custody of *Ralph Torale*, Esq; then Sheriff of the said County of *Surry*, in whose Custody he had been before that Time delivered in due Form of Law for the Cause in the Writ above specified) one Rope and two Iron Hooks, to the Intent and Purpose, that the said *John Rowe* might and should thereby be enabled to make his Escape out of the said Gaol: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That, pursuant to the Contrivance and Intention of the said *Robert Wilson*, and by Means of the said Rope and Hooks, and by Procurement of the said *Robert Wilson*, he, the said *John Rowe*, afterward, to wit, on the same Day and Year last above-mentioned, at the same Parish and County, then and there being in the Custody of the Sheriff last named, in the said Gaol, for the Cause in the Writ above specified, with

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Force and Arms, against the Will, and without the Licence and Consent of the last named Sheriff, and of the then Gaolor of the said Gaol, unlawfully and voluntarily did escape, and go at large, out of the said Gaol, from the Custody of the said *Ralph Thrale*, then Sheriff of the said County of *Surry*: And the Jurors aforesaid, upon their Oath aforesaid, do further present,

Add such a General Count.

That the said *Robert Wilson*, on the said sixth Day of *December*, in the said eighth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish and County last above-mentioned, wilfully, advisedly, and unlawfully, and against the Will and Consent of the said then Sheriff of the said County of *Surry*, and against the Will, and without the Licence and Consent of the then Gaolor of the said Gaol of our said Lord the King, of his said County of *Surry*, did aid, abet, comfort and assist, the said *John Rowe*, so being in the said Gaol as aforesaid, for the Cause aforesaid, in making his Escape from the said Gaol and Custody of the said last named Sheriff, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Whoever breaks, or escapes, or assists another to break or escape from any lawful Imprisonment, is punishable as for a High Mis-prison, by Fine and Imprisonment; and every Indictment against Offenders of that Sort, must specially set forth his Case in such a Manner, that it may appear he was lawfully in Prison, and it is not sufficient to say in general, that he broke or escaped,

or

or that be assisted in the Breaking or Escaping of the Party imprisoned.

By the Stat. 16. Geo. 2. c. 31. If any Person shall by any Means whatsoever be aiding or assisting to any Prisoner to attempt to make his Escape from any Gaol, although no Escape be actually made, in case such Prisoner then was attainted or convicted of Treason, or any Felony, except petty Larceny, or lawfully committed to or detained in any Gaol for Treason, or any Felony, except petty Larceny, expressed in the Warrant of Conviction or Detainer, every Person so offending, and being thereof lawfully convicted, shall be deemed and adjudged guilty of Felony, and shall be transported for seven Years; and in case such Prisoner was then convicted of, committed to, or detained in any Gaol for petty Larceny, or any other Crime, not being Treason or Felony, expressed in the Warrant of committment or detainer as aforesaid, or then was in Gaol upon any Process whatever for any Debt, &c. amounting to 100 l. every Person so offending, and being thereof convicted, shall be deemed guilty of a Misdemeanor, for which he shall be liable to be fined and imprisoned.

And if any Person shall convey, or cause to be conveyed into any Gaol, any vizard or other Disguise, or any Instrument, or Arms proper to facilitate the Escape of Prisoners; and the same shall deliver or cause to be delivered to any Prisoner in any such Gaol, or to any other Person there, for the Use of any such Prisoner, without the Consent or Privity of the Keeper of such Gaol; every such Person, although no Escape, or Attempt to escape be ac-

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usually made, shall be deemed to have delivered such Vizor, &c. with an Intent to aid and assist such Prisoners to escape or attempt to escape; and in case such Prisoner then was attainted or convicted of Treason, or any Felony, except petty Larceny, or lawfully committed to or detained in any Gaol for Treason, or any Felony, except petty Larceny, expressed in the Warrant, every Person so offending, and being thereof convicted, shall be transported for seven Years: But in case the Prisoner, to whom, or for whose Use such Vizor, &c. shall be so delivered than was convicted, committed, or detained for petty Larceny, or any other Crime, not being Treason, or Felony, expressed in the Warrant, or upon any Process for any Debt, &c. amounting to 100 l. every such Person so offending, and being thereof convicted, shall be deemed guilty of a Misdemeanor, for which he shall be liable to a Fine and Imprisonment.

And if any Person shall aid or assist any Prisoner to attempt to make his Escape from any Constable, Headborough, Tythingman, or other Officer or Person who shall then have the lawful Charge of such Prisoner, in order to carry him to Gaol by Virtue of a Warrant for Treason, or any Felony, except petty Larceny, expressed in such Warrant; or if any Person shall be aiding or assisting to any Felon, to attempt to make his Escape from on board any Boat, Ship or Vessel carrying Felons for Transportation, or from the Contractor for the Transportation of such Felons, his Assigns, or Agents, or any other Person to whom such Felon shall have been lawfully delivered, in order for Transportation; then every Person so offending, and being convicted thereof, shall be deemed

deemed guilty of Felony, and shall be transported for seven Years.

There shall be no Prosecution for any of the said Offences, unless it be commenced within one Year after such Offence was committed.

R E S C U E.

From a Marshal's-Court Officer.

Surry. **T**HE Jurors &c. That on the nineteenth Day of *January*, in the seventh Year, &c. of our said Lord the King, by his Writ issued out of the Court of our said Lord the King of his Palace of *Westminster*, under the Seal of the said Court, bearing Date the same Day and Year, directed to the Bearers of the Virges of the Household of our said Lord the King, Officers and Ministers of the Court of our said Lord the King of his Palace of *Westminster*, and every of them, did command them, and every of them that they should take or one of them *Recital of the Writ.* should take by their Bodies, *R. A. and W. C.* if they should be found within the Jurisdiction of the Court aforesaid, and them safely keep, so that they might have or one of them might have their Bodies before the Judges of the Court aforesaid, at the then next Court of the Palace of our said Lord the King, of *Westminster* aforesaid, on *Friday* the twenty-sixth Day of *January* then next following, to be holden at *Southwark* in the County of *Surry*, to answer to *T. W.* of a Plea of *Trespas* upon the Case, to the Damage of ninety-nine Shillings: Which same Writ afterwards and before the Return of the same, to wit, on

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on the twenty-fifth Day of *January*, in the Year aforesaid, at the Parish of _____ in the County of _____ within the Jurisdiction of the Court aforesaid, was delivered to one *G. N.* then one of the Bearers of the Virges of our said Lord the King, Officers and Ministers of the said Court of our said Lord the King, to be executed in Form of Law; by Virtue of which same Writ, the said *G. N.* afterwards, and before the Return of the same Writ, to wit, on the same twenty-fifth Day of *January*, in the Year aforesaid, at the Parish of _____ in the County of _____ and within the Jurisdiction of the Court aforesaid, did take and arrest the Body of *R. A.* in the Writ aforesaid named, and him the said *R. A.* in his Custody by Virtue of the said Writ then and there had; and that the said *R. A.* late of the Parish aforesaid, in the County aforesaid, Yeoman, and *C. D.* late of the same, Blacksmith; afterwards, to wit, on the said twenty-fifth Day of *January* in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *G. N.* then and there as aforesaid, being one of the Bearers of the Virges of the Household of our said Lord the King, Officers and Ministers of the Court aforesaid, and in the Peace of God and our said Lord the King and in the Execution of his said Office then and there being, did make an Assault, and him the said *G. N.* then and there did beat, wound and ill-treat, so that of his Life it was greatly despaired; and that the said *C. D.* him the said *R. A.* out of the Custody of the said *G. N.* and against the Will of the said *G. N.* then and there with Force and Arms unlawfully did rescue and put him at large to go where he would; and that the said *R. A.* himself, out of the
the

the Custody of the said G. N. and against the Will of the said G. N. then and there with Force and Arms, unlawfully did rescue and escape at large, where he would go, in Contempt of our said Lord the King and his Laws, to the great Damage of the said G. N. to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. *It will not be improper in this Case to lay another Count for a common Assault.*

*For Rescuing a Person taken by
Virtue of a Bill of Middlesex.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the twelfth Day of *February*, in the sixth Year of the Reign of our Sovereign Lord George the Second, King of Great Britain, &c. a certain Precept, commonly called a Bill of *Middlesex*, was issued out of the Court of our said Lord the King before our said Lord the King (the same Court being holden at *Westminster* in the County of *Middlesex*) by which it was commanded, the Sheriff of *Middlesex*, that he should take *Henry Osmond* and *John Doe*, if, and so forth, and them safely, and so forth, so that he might have their Bodies before our said Lord the King at *Westminster*, on the *Wednesday* next after fifteen Days of *Easter*, to answer to *Benjamin Harlee* of a Plea of *Trespas*, and also to the Bill of him the said *Benjamin*, to be exhibited against the aforesaid *Henry* for thirty Pounds, upon Promise, according to the Custom of the said Court; which same Precept afterwards, and before the Return of the same Precept, to wit, on the twentieth

twentieth Day of *February*, in the Year aforesaid, at the Parish of *St. Andrew Holbourn*, in the County of *Middlesex* aforesaid, was delivered to *Robert Alsop*, Esq. and *Sir Henry Hankey*, Kt. Sheriff of the County aforesaid, in Form of Law to be executed; which said *Robert Alsop*, and *Henry Hankey*, Sheriff of the County aforesaid, by Virtue of the Precept aforesaid, afterwards, and before the Return of the same Precept, to wit, on the said twentieth Day of *February*, in the Year aforesaid, did make a certain Warrant of him the said Sheriff, under his Seal directed to *John Dodd*, *John Doe* and *Richard Roe* his Bailiffs, of the hundred of *Ossulston* in the County aforesaid, by which he commanded them, and every of them, jointly and severally, that they should take, or one of them should take the said *Henry Osmond*, in the Precept above named, to answer to the said *Benjamin Harlee* of a Plea of Trespass aforesaid, and that the said *John Dodd*, in the Warrant aforesaid named, afterward, and before the Return of the Precept aforesaid, to wit, the twenty-eighth Day of *February*, in the Year aforesaid, by Virtue of the Precept and Warrant aforesaid, at the Parish of *Fulbam*, within the hundred aforesaid, in the County aforesaid, did take and arrest the said *Henry Osmond*, in the Precept aforesaid, above-mentioned, according to the Command of the Precept and Warrant aforesaid. upon which the said *Henry Osmond*, late of the said Parish of *Fulbam*, in the County aforesaid, Yeoman, *John Faulkner*, late of the same Yeoman, and *Mary Waitman* late of the same, Spinster, afterwards, to wit, on the said twenty-eighth Day of *February*, in the Year aforesaid, with Force and Arms, at the Parish of *Fulbam* aforesaid, in the County aforesaid, in and upon the said *John Dodd*, then
being

being one of the Bailiffs of the said Sheriff of the County aforesaid, of the Hundred of *Ossulston*, aforesaid, and in the due Execution of the Precept and Warrant aforesaid, and in the Peace of God and our said Lord the King, then and there being, did made an Assault, and him the said *John Dodd*, then and there did beat, wound, and ill-treat, so that his Life was greatly despaired of; and that the said *John Faulkner*, and *Mary Whitman*, him the said *Henry Osmond*, out of the Custody, and against the Will of the said *John Dodd*, then and there unlawfully did rescue and put at large to go where he would, and that the said *Henry Osmond*, himself out of the Custody, and against the Will of the said *John Dodd*, then and there unlawfully did rescue and escape at large, where he would go, to the great Damage of him the said *John Dodd*, and against the Peace of our said Lord the King, his Crown and Dignity.
Lay another Count for a common Assault.

For Rescuing Goods distrained for Rent.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That on the second Day of *December*, in the seventh Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. one *Matthew Pugh*, of the Parish of *St. Andrew Holbourn*, in the County of *Middlesex*, Pastry-Cook, in due Form of Law, did take and distrain one Walnut-Tree Chest of Drawers, of the Value of twenty Shillings, and one Feather Bed, of the Value of forty three Shillings, of the Goods and Chattels of one *Ann H* -

day

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day, Widow, then being in a certain Lodging-Room in the Dwelling-House of the said *Matthew Pugh*, situate in the Parish and County aforesaid, which same Distress was taken by him the said *Matthew*, for the Sum of three Pounds and ten Shillings, being then due for Rent, for one whole Year, in Arrear from the said *Ann Holyday*, to him the said *Matthew Pugh*, for the Lodging aforesaid; and that the said *Matthew Pugh*, the said Goods and Chattels then and there had and detained in his Custody; and the Jurors aforesaid, upon their Oath, aforesaid, do further present, that *Andrew Wilks*, late of the said Parish of Saint *Andrew Holbourn*, in the said County of *Middlesex*, Yeoman, afterwards, to wit, on the said second Day of *December*, in the Year aforesaid, with Force and Arms, at the said Parish aforesaid, in the County aforesaid, the said Goods and Chattels, to as aforesaid, by him the said *Matthew Pugh* taken and distrained, and in the Custody of the said *Matthew Pugh*, then being from and out of the Custody, and against the Will of him the said *Matthew*, then and there unlawfully and injuriously did rescue, take, and carry away, (the said Sum of three Pounds and ten Shillings, for the said Rent in Arrear, as aforesaid due, nor any Part thereof then being paid) and other Wrongs, to the said *Matthew*, then and there did, to the great Damage of the said *Matthew*, and against the Peace of our said Lord the King, his Crown and Dignity.

Rescue is where a Person arrested, upon any legal Process, is forcibly taken out of the Custody of him who arrested him. It also extend to Distress taken away, and there must be a Distress, or an Arrest, or there cannot be a Rescue.

The

The Sheriff cannot return a Rescous of a Person arrested, made upon a special Bailiff not known, it ought to be on 2 Lill. 468. a Sheriff's known Bailiff; and if 2 Lev. 26.

the Writ upon which the Defendant is arrested be naught, and a Rescous is made, there is no Remedy against the Rescuers. In other Cases they may be indicted, or Actions brought against

them; but if an Indictment of Rescous, the Place where, and Time when, the Rescous was made, &c. be not expressed, it is not good for the Incertainty. The Plaintiff, at whose Suit an Arrest is made upon Mesne Process, may have his Action against the Rescuers, and cannot bring it against the Sheriff; but where a Person is rescued, taken upon a Ca. Sa. Action lies for the Plaintiff, as well against, the Rescuers, as the Sheriff.

Trin. 23 Car.

B. R.

Cro. Jac. 486.

On an Action for Escape on Mesne Process, if the Sheriff plead a Rescue, it shall be good; but not upon an Execution, where the Sheriff may raise the Posse Comitatus to secure the Prisoner, or Goods.

Cro. Jac. 109.

2 Lev. 144.

3 Lev. 46.

Cro. Jac. 49.

When a Bailiff hath a Warrant to arrest a Man, and is hindred in executing it by another; if the Party be not actually arrested, it can't be a Rescous: And it hath been doubtful, whether an Arrest is lawful, if by the Bailiff's Servant, and not in his Presence.

Mod. Caf. 211.

5 Mod. 216.

As to Rescues of Distresses; if any Distress is taken without Cause, as where there is no Rent due, or any Thing is dis-

1 Inst. 47.

strained that is not distrainable; where one distrains in the Highway, &c. Rescous may be made, and justifiable; but if the Distress be made upon good Cause, the Owner cannot rescue it; and tho' the Distress be without Cause, if impounded,

be

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he may not break into the Pound, to rescue the Distress. If Cattle distrained, on driving to the Pound, happen to go into the House of the Owner and the Owner do not deliver them, it is a Rescous in Law.

1 Inst. 161.

Where the Owner of Cattle tenders his Rent before Distress, and Distress is taken afterwards, it is wrongfully taken, and the Tenant may make Rescous; but if he tenders after Distress, it is otherwise.

1 Inst. 160.

2 Inst. 107.

2 W. & M. 5.

The unlawful Rescous of Goods distrained, and Pound Breaches, incur treble Damages, recoverable by the Statute on Action of the Case: But where Distress is taken, and no Rent due, double Value of the Goods may be recovered by the Owner, &c. See, Antea p. 141.

H. P. C. Rescuing a Felon arrested for Felony, is Felony.

An Indictment for a Riot and Assault.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That Francis Covill, late of the Parish of Croydon, in the County of Surry, Yeoman; Thomas How, late of the same, Yeoman, Abraham Heathfield, late of the same, Yeoman; and divers other Persons (to the Jurors aforesaid, as yet unknown) on the fifteenth Day of June, in the seventh Year of the Reign of our Sovereign Lord George the Second, King of Great Britain, France, and Ireland, Defender of the Faith, with Force and Arms, at the Parish aforesaid, in the County aforesaid, did unlawfully, riotously, and routously assemble and gather together, to disturb the Peace of our said

ſaid Lord the King ; and ſo being then and there aſſembled and gathered together, in and upon one *Sarah*, the Wife of *William Hobbs*, in the Peace of God, and our ſaid Lord the King, then and there being unlawfully, riotouſly, did make an Affault, and her the ſaid *Sarah*, then and there unlawfully, riotouſly, and routouſly did beat, wound, and ill-treat, ſo that of her Life it was greatly deſpaired, and other Wrongs to the ſaid *Sarah*, then and there unlawfully, riotouſly, and routouſly did to the great Damage of the ſaid *Sarah*, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity : And the Jurors aforeſaid, upon their Oath aforeſaid, do further preſent, that the ſaid *Francis Covill*, *Thomas How*, and *Abraham Heathfield*, on the ſaid fifteenth Day of *June*, in the Year aforeſaid, with Force and Arms, at the Pariſh aforeſaid, in the County aforeſaid, in and upon the ſaid *Sarah Hobbs*, In the Peace of God, and our ſaid Lord the King, then and there being, did make an Affault, and her the ſaid *Sarah* then and there did beat, wound, and ill-treat, ſo that of her Life it was greatly deſpaired, and other Wrongs to the ſaid *Sarah* then and there did, to the great Damage of the ſaid *Sarah*, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

For a Riot committed by several Footmen at Drury-Lane Play-house, when their Royal Highnesses the Prince and Princess of Wales were there.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Stables* late of the Parish of *Saint Martin in the Fields*, in the County of *Middlesex*, Labourer; and *John Ryley*, late of the same, Labourer; together with fifty other Persons, to the Jurors aforesaid as yet unknown, being Rioters, Routers, and Disturbers of the Peace of our said Lord the King, on the fifth Day of *March*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, that is to say, with Sticks, Staves, and other offensive Weapons, at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, and routously, did assemble and gather together, to disturb the Peace of our said Lord the King, and being so assembled and gathered together, ten Lamps and two Doors belonging to *Charles Fleetwood Esq:* then and there being in a certain Building of him the said *Charles*, called *Drury-Lane Play-house*, then and there unlawfully, riotously, and routously did break and destroy (their Royal Highnesses the Prince and Princess of *Wales*, then and there being in the said Play-house) and other Wrongs to the said *Charles*, then and there unlawfully, riotously and routously did, to the great Damage of the said *Charles*, and against the Peace of our said Lord the King, his Crown
and

and Dignity: And the Jurors aforesaid upon their Oath aforesaid, do further present, that the said *John Staples*, and *John Ryley*, together with fifty other Persons, to the Jurors aforesaid as yet unknown, on the said fifth Day of *March*, in the Year aforesaid, with Force and Arms, that is to say, with Sticks, Staves, and other offensive Weapons, at the Parish aforesaid in the County aforesaid, unlawfully, riotously, and routously, did assemble and gather together, to disturb the Peace of our said Lord the King; and being so assembled and gathered together, did then and there unlawfully, riotously, and routously remain and continue armed as aforesaid, in a tumultuous Manner, for the Space of half an Hour, to the great Disturbance and Terror of divers of his Majesty's Subjects, and against the Peace of our said Lord the King, his Crown, and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *John Staples*, and *John Ryley*, together with fifty other Persons, to the Jurors aforesaid as yet unknown, on the said fifth Day of *March*, in the Year aforesaid, with Force and Arms at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, and routously did assemble and meet together, to disturb the Peace of our said Lord the King; and being so assembled and met together, in and upon one *George Bradshaw*, in the Peace of God, and our said Lord the King, then and there being, unlawfully, riotously, and routously did make an Assault, and him the said *George Bradshaw*, then and there unlawfully, riotously and routously did beat, wound, and illtreat, so that of his Life it was greatly despaired, and other Wrongs to the said *George Bradshaw*, then and there unlawfully,

C c 2

riotously

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riotously, and routously did, to the great Damage of the said *George Bradshaw*, and against the Peace of our said Lord the King, his Crown and Dignity.

For a Riot, and endeavouring to rescue two Persons apprehended for cutting down Turnpikes.

Herefordshire. **T**HE Jurors for our Lord the King upon their Oath present, That *Elizabeth Walters*, late of *Ledbury*, in the County of *Hereford*, Spinster, together with *James Baylis*, *Thomas Reynolds*, and several other Persons, to the Number of twenty Persons and more (to the Jurors aforesaid) yet unknown, on the twentieth Day of *September*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms at *Ledbury* aforesaid, in the County aforesaid, did unlawfully, riotously, and routously assemble and gather together to disturb the Peace of our said Lord the King, and being then and there so assembled and gathered together, were armed with Axes, Hatchets, and other Instruments, with an Intent to cut down and destroy a certain Turnpike, then and there lately before, to wit, on the second Day of *September*, in the Year of our Lord One thousand seven hundred and thirty-five, erected by Authority of a certain Act of Parliament in that Case made and provided, and intituled, *An Act for repairing the several Roads leading from the Town of Ledbury, in the County of Hereford, to the several Places therein mentioned.* And that the said *James Baylis* and
Thomas

Thomas Reynolds afterwards, to wit, on the same Day and Year first above-mentioned, at *Ledbury* aforesaid, in the County aforesaid, were lawfully taken and apprehended for the Offences aforesaid, and then and there were conveyed before *John Skipp*, Esq; then one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Hertsford* aforesaid, and also to hear and determine divers Felonies, Trespasses, and other Misdeeds committed in the same County, to be examined touching the Premises, and further to be dealt with according to Law, and were duly kept and detained in Custody at the Dwelling-House of the said *John Skipp*, situate in *Ledbury* aforesaid, for that Purpose; and that the said *James Baylis* and *Thomas Reynolds* so being in Custody for the Offences aforesaid, the said *Elizabeth Walters* afterwards, to wit, the same Day and Year first above-mentioned at *Ledbury* aforesaid, in the County aforesaid, together with the several other Persons (to the Jurors aforesaid) yet unknown, the Dwelling-House of the said *John Skipp*, there situate unlawfully, riotously and routously did attack and beset, and that the said *Elizabeth Walters*, did then and there advise, persuade, and encourage the said other Persons (to the Jurors aforesaid) yet unknown, to discharge and shoot off several Guns to and against the said Dwelling-House of the said *John Skipp*, and by such Advice, Persuasion, and Encouragement of the said *Elizabeth Walters*, the said other Persons (to the Jurors aforesaid) yet unknown, then and there did discharge, and shoot off several Guns against the said Dwelling-House of the said *John Skipp*, with an Intent forcibly to rescue the said *James Baylis* and *Thomas Reynolds* so

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as aforesaid being in Custody for the Causes before-mentioned, in Contempt of our said Lord the King and his Laws, to the great Damage of the said *John Skipp*, and against the Peace of our said Lord the King, his Crown and Dignity.

1 Vent. 251.

Salk. 594.

Dalt. 85, 86, 87.

A Riot seems to be a tumultuous Disturbance of the Peace, by three Persons or more, assembling together of their own Authority, with an Intent mutually to assist each other, against any who shall oppose them in the Execution of some Enterprize of a private Nature, and afterwards actually executing the same in a violent and turbulent Manner, to the Terror of the People, whether the Act intended were of itself lawful or unlawful.

2 Lill. 489.

There must be three Persons at least to make a Riot; and two Persons only cannot be guilty of a Riot. If divers Persons assemble together in a peaceable Manner, and after assembled, do some riotous Act, this is a riotous assembling; although they did not at first assemble in a riotous Manner. But

Dalt. 322.

Assemblies for Wrestling, playing at Cudgels, Dancing, &c. are not riotous. There must be an Intention of Force or Violence, relating to a private Quarrel, to make a Riot. And if the Intention

2 Inst. 9, 10.

Dalt. 322.

be to redress publick Grievances, and be executed, 'tis adjudged levying War against the King, and Treason. If Persons on a lawful Meeting, fall out upon some sudden Quarrel, there being no Intention of an unlawful Act, it is no Riot. Where many People are assembled lawfully, without any ill-Intent and an Affray

2 Salk. 595.

happens, none are guilty but those actually concerned in it; but if unlawfully assembled, then the Act of one may be imputed to all: If one in Company

Company is beaten by the Rest, it is no Riot; but 'tis otherwise of a Stranger. Persons innocently met, after Confederate together with Intent to break the Peace, they may be guilty of a Riot; But the doing an unlawful Act is not Rioteus, except there be a Disturbance of the Peace. If a Man seeing others engaged in a Riot, join with and assist them, he is as much a Rioter as if he at first assembled for that Intention. Any Person may assemble a Number of Men, to defend his House against Injury, and to remove a Nuisance, &c. in a peaceable Manner; but if the Persons use any threatening Words, it will amount to a Riot.

Women 'tis said may be punished as Rioters; but Infants under the Age of Fourteen, are not punishable. At Common Law Riots are punished by Fine and Imprisonment, and by Pillory of enormous.

By Statute, Justices of the Peace, with the Sheriffs of Counties, &c. have Power to suppress Riots; and arrest and imprison Rioters. They are to make Inquiry by a Jury, and record and certify their Proceedings. The Lord Chancellor may send forth a Capias to take and arrest the Parties, &c. on a Bill of Complaint for any Riot testified under the Seals of two Justices of the Peace, and the Sheriff; and on Default of Justices enquiring, the King's Commission shall go out to inquire by sufficient Men of the County. Heinous Rioters are to suffer one Year's Imprisonment. See of other Riots, viz. Felony &c. under their proper Heads.

SEDITIONIOUS WORDS.

Seditious Words against the King.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Joseph Scandal*, late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Gent. being a pernicious and seditious Man, and a Person of depraved, impious, and disquiet Mind, and of a seditious Disposition and Conversation, and contriving, practicing, and falsely, maliciously, turbulently, and seditiously intending the Peace and common Tranquility of our Lord the King, and this Kingdom of *England*, to disquiet, molest, and disturb, and to bring our most Serene Lord *James* the Second, now King of *Great Britain*, in great Hatred, Contempt, and Scandal, with all his Liege and faithful Subjects of this Realm and the Colonels, Captains and other Military Officers and Soldiers of our said Lord the King, to scandalize and vilify, and that the said *Joseph Scandal*, his most wicked Contrivances, Practices and Intentions aforesaid, to compleat, perfect and render effectual, on the tenth Day of *May*, in the second Year of the Reign of our said Sovereign Lord *James* the Second, now King of *Great Britain*, at the Parish aforesaid, in the County aforesaid, having Discourse then and there concerning our said Lord the King, and the Guards of our said Lord the King, and of their Business, in the Presence and Hearing of divers Liege Subjects of our said Lord the King, then and there present, falsely, maliciously, unlawfully wickedly and seditiously, of our said Lord the King, and
of

SEDITIONOUS WORDS. 393

of his Colonels and Officers, did say, assert, affirm and pronounce, and with a loud Voice did declare these false, fictitious, malicious, seditious and opprobrious *English* Words following (that is to say) the Colonels and the rest of the Officers (meaning the said Colonels and Officers in the Guards of our said Lord the King) are a Company of Rogues and Villains, for that their Business is to uphold their Master (meaning our said Lord the King) who (meaning our said Lord the King) is a Villain and a Rogue, and never kept his Word in any thing, he (meaning again our said Lord the King) said; and that the said *Joseph Scandal*, in further Prosecution of his Malice towards our said Lord the King before had, afterwards, to wit, on the same Day and Year, at the Parish aforesaid, in the County aforesaid, falsely, maliciously, diabolically, seditiously and most wickedly, in the Presence and Hearing of divers other Liege and faithful Subjects of our said Lord the King, then and there present, did say, utter, and with a loud Voice pronounce, assert and affirm, that our said Lord the King was a Villain and a Rogue, and never kept his Word in any thing he said, to the great Shame and Scandal of our said Lord the King, Colonels and other Officers of the Guards of our said Lord the King, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For speaking Seditious Words against the King.

Middlesex. **T**HE Jurors, &c. That *A. B.* of &c. being a pernicious and seditious Man, and contriving and intending the liege Subjects of our said Lord the King, to incite and move to hatred and dislike of the Person of our said Lord the King, and the Government established within this Realm, on the tenth Day of *January*, in the Year of the Reign of our Sovereign Lord now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, in the Presence and Hearing of divers liege Subjects of our said Lord the King, with whom the said *A. B.* then and there was talking of and concerning our said Lord the King, unlawfully, maliciously and wickedly did publish, utter and declare with a loud Voice these *English* Words following (to wit) He (meaning our said Lord the King) is a Whelp and a Bastard; to the great Scandal and Contempt of our said Lord the King, and his Laws, to the evil and pernicious Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

All Contempts against the King's Person or Government are very highly Criminal, and punishable with Fine and Imprisonment, and sometimes with the Pillory, by the Discretion of the Judges, upon the Consideration of all the Circumstances of the Case, as by charging the Government with Oppression or weak Administration; the doing any Act which impliedly encourages

1 Hawk. P. C.
cap. 13.

ges Rebellion; the endeavouring to frighten the King into a Change of his Measures, with Threats of the Uneasiness of his Subjects; spreading false Rumours concerning the King's Intention; charging him with a Breach of his Coronation Oath, speaking contemptuously of him, as by cursing him, &c. or giving out that he wants Wisdom, Valour or Seadiness, or in general, doing any Thing which may lessen him in the Esteem of his Subjects, and weaken his Government, or raise Jealousies between him and his People.

T R A D E.

For exercising an Art or Trade, not having served seven Years as an Apprentice, upon the Stat. 5 Eliz. c. 4.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *W. G.* late of the Parish of *St. George, Hanover Square*, in the County of *Middlesex*, Yeoman, on the twelfth Day of *January*, in the fifth Year of the Reign of the late Queen *Elizabeth*, of *England*, and so forth, did not lawfully use or exercise any Art, Mystery, or manual Occupation within *England* or *Wales*, yet he the said *W. G.* afterward, to wit, the first Day of *November*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, and continually afterwards, until the seventh Day of *May*, in the Year last above-mentioned, that is to

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to say, for the Space of six whole Months and upwards, at the Parish aforesaid, in the County aforesaid, for his own Lucre and Gain, did set up, use, and exercise the Art, Mystery, or manual Occupation, of a Brewer, being an Art Mystery or manual Occupation, used within *England* aforesaid, on the said twelfth Day of *January*, in the said fifth Year of the Reign of the said late Queen *Elizabeth*, in which same Art, Mystery, or manual Occupation of a Brewer, he the said *W. G.* was not brought up for the Space of seven Years as an Apprentice, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

The Session of Parliament was holden the twelfth Day of *January* 5 *Eliz.* c. 4. It is enacted, That after the first Day of May now coming, it shall not be lawful to any Person or Persons, other than such as now lawfully use or exercise any Art, Mystery, or manual Occupation, to set up, occupy, use, or exercise any Craft, Mystery, or manual Occupation, now used or occupied within the Realm of *England* or *Wales*, except he shall be brought up therein seven Years, at the least, as an Apprentice (in Manner and Form as therein is described) upon Pain that every Person wilfully offending, forfeit forty Shillings for every Month. This Offence must be prosecuted within twelve Months.

U S U R Y.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *Henry Vultur*, late of the Parish of *St. James, Clerkenwell*,
in

in the County of *Middlesex*, Gentleman, after the twenty-ninth Day of *September*, in the Year of our Lord One thousand seven hundred and fourteen, (to wit) on the sixteenth Day of *October*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did lend to one *Bartholomew Green* the Sum of One hundred Pounds of lawful Money of *Great Britain*; and the said *Bartholomew Green*, for securing the Repayment of the said Sum of One hundred Pounds, with lawful Interest for the same, to the said *Henry Vultur*, or his Order, he the said *Bartholomew Green* afterwards, to wit, the same sixteenth Day of *October*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did give and deliver to the said *Henry Vultur*, a certain Promissory-Note, subscribed with the proper Hand-Writing of him the said *Bartholomew Green*, bearing Date the Day and Year aforesaid; by which said Note, the said *Bartholomew Green* did promise to pay to the said *Henry Vultur*, or his Order, the said Sum of One hundred Pounds, with lawful Interest for the same, six Months after the Date of the same Note; and the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *Henry Vultur* afterwards, to wit, on the twenty-second Day of *April*, in the said tenth Year of the Reign of our said Lord the King, at the said Parish of *St. James, Clerkenwell*, in the said County of *Middlesex*, unlawfully, unjustly and corruptly did receive and take, of, and from the said *Bartholomew Green*, the Sum of Four Pounds and fifteen Shillings of lawful Money of *Great Britain*, of the Monies of him the said *Bartholomew Green*, for the forbearing

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bearing and giving Day of Payment of the said Sum of One hundred Pounds, from the said sixteenth Day of *October*, in the Year aforesaid, until the said twenty-second Day of *April* in the Year aforesaid, which said Sum of Four Pounds and fifteen Shillings, so as aforesaid received and taken by the said *Henry Vultur*, for the forbearing and giving Day of Payment of the said Sum of One hundred Pounds from the said sixteenth Day of *October*, in the Year aforesaid, until the said twenty-second Day of *April*, in the Year aforesaid, did exceed the Rate of five Pounds for the Loan of One hundred Pounds for a Year, to the great Damage of the said *Bartholomew Green*, against the Form of the Statute in that Case lately made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity.

All undue Advantages taken by a Lender against a Borrower, come under the Notion of Usury, whether there were any Contract in relation thereto, or not, as where one in Possession of Land, made over to him for the Security of a certain Debt, retains his Possession after he hath received all that is due from the Profits of the Land.

But it hath been resolved, that an Agreement to double the Sum borrow'd, or other Penalty, on the Nonpayment of the principal Debt at a certain Day, is not usurious, because it is in the Power of the Borrower wholly to discharge himself, by repaying the Principal, according to the Bargain.

2 Rol. Ab 801.
Pl. 2. 3.

2 Inst. 39.

Anciently

Anciently it was holden to be absolutely unlawful for any Christian to take any kind of Usury, and that whosoever was guilty of it, was liable to be punished by the Censures of the Church in his Life time; and that if, after Death, any one was found to have been an Usurer, while living, all his Chattels were forfeited to the King, and his Lands escheated to the Lord of the Fee.

3 Inst. 151.
2 Rol. Ab. 800,
801.
2 Inst. 506,
507.
Palmer, 293,
294.

Formerly all kinds of Usury seemed contrary to good Conscience, by the Opinion of the Makers of several Acts of Parliament, viz. 5 Ed. 6, 20. 13 Eliz. 8. and 21 Jac. 1. 17.

And agreeably hereto it seemeth formerly to have been the general Opinion, That no Action could have been maintained on any Promise to pay any kind of Use for the forbearance of Money, because all such Contracts were thought to be unlawful, and consequently void.

2 Rol. Ab. 801.
1 Rol. Ab. 18.
Pl. 14. 15.

But it seems to be generally agreed at this Day, that the taking of reasonable Interest for the Use of Money, is in itself lawful, and consequently that a Covenant or Promise to pay it, in Consideration of the Forbearance of a Debt, will maintain an Action; for why should not one who has an Estate in Money be as well allowed to make a fair Profit of it as another who hath an Estate in Land? And what Reason can there be, that the Lender of Money should not as well make an Advantage of it as the Borrower? Neither do the Passages in the Mosai-

1 Haw. P. C,
cap. 81.

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Exod. 22. ver.

25.

Levit. 25. ver.

36. 37.

Deut. 23. ver.

19. 20.

cal Law, which are generally urged against the Lawfulness of all Usury, if fully considered, so much prove the Unlawfulness of it; for if all Usury were against moral Law, why should it not be as much so, in Respect of Foreigners, of whom the Jews were expressly allowed to take it, as in Respect of those of the same Nation, of whom alone they were forbidden to receive it? From whence it seems clearly to follow, that the Prohibition of it to that People was merely political, and consequently doth not extend to any other Nation.

Usury is thus restrained by the Stat. 12 Ann. c. 16. " That no Person whatsoever shall, upon
 " any Contract which shall be made from and
 " after the twenty-ninth Day of September,
 " 1714, take, directly or indirectly, for Loan
 " of any Money, Wares, Merchandize, or other
 " Commodities whatsoever, above the Value of
 " five Pound in the Hundred for a Year, and so
 " after that Rate for a greater or lesser Sum, or
 " for a longer or shorter Time; and that all
 " Bonds, Contracts, and Assurances whatsoever,
 " made after the Time aforesaid for Payment of
 " any Principal or Money to be lent, or cove-
 " nanted to be performed, upon or for any Usury,
 " whereupon or whereby there shall be reserved
 " or taken above the Rate of five Pounds in
 " the Hundred, as aforesaid, shall be utterly
 " void; and that all and every Person or Persons
 " whatsoever, which shall after the Time afore-
 " said, upon any Contract to be made after
 " the said twenty-ninth Day of September,
 " take, accept, and receive, by Way or Means
 " of any corrupt Bargain, Loan, Exchange, Che-
 " vyzance, Shift, or Interest of any Wares, Mer-
 " chandizes, or other Thing or Things whatso-
 " ever

“ ever, or by any deceitful Way or Means, or
 “ by any Covin, Engine, or deceitful Convey-
 “ ance, for the forbearing or giving Day of Pay-
 “ ment for one whole Year, of and for their Mo-
 “ ney, or other Thing, above the Sum of Five
 “ Pounds, for the forbearing of one hundred
 “ Pounds for a Year, and so after that Rate for
 “ for a greater or lesser Sum, or for a longer or
 “ shorter Term, shall forfeit and lose for every
 “ such Offence, the treble Value of the Money,
 “ Wares, Merchandizes, and other Things, so
 “ lent bargained, exchanged, or shifted.”

And 'tis farther enacted by the said Statute,
 “ That every Scrivener, Broker, Solicitor, and
 “ Driver of Bargains for Contracts, who shall,
 “ after the said nine and twentieth Day of Sep-
 “ tember, take or receive, directly or indirectly,
 “ any Sum or Sums of Money, or other Re-
 “ ward or Thing, for Brokage, Soliciting, dri-
 “ ving, or procuring the Loan, or forbearing
 “ of any Sum or Sums of Money, over and a-
 “ bove the Rate or Value of five Shillings for the
 “ Loan, or forbearing of one hundred Pounds
 “ for a Year, and so rateably ; or above twelve
 “ Pence, over and above the Stamp-Duties, for
 “ making or renewing of the Bond or Bill for
 “ Loan, or forbearing thereof, or for any Coun-
 “ ter-bond or Bill concerning the same, shall for-
 “ feit for every such Offence, twenty Pounds,
 “ with Costs of Suit, and suffer Imprisonment
 “ for half a Year ; the one Moiety of all which
 “ Forfeitures shall be to the Queen, the other
 “ to him that will sue for the same, in the same
 “ County where the several Offences are commit-
 “ ted, &c.”

*A Contract made before the Statute, is no Way
 within the Meaning of it, and therefore it is still law-*

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ful to receive six Pounds per Cent. in respect of any such Contract ; for the Stat. 12 Car. 2. c. 13. allows six Pounds per Cent.

The Receipt of a higher Interest than is allowed by the Statute, by Virtue of an Agreement, subsequent to the first Contract, does not avoid an Assurance fairly made, and agreeable to the Statute, but only subjects the Party to the Forfeiture of treble Value ; for the Words are : " That all Assurances for the Payment of any Principal, &c. whereupon or whereby there shall be reserved or taken above the Rate of five Pounds in the Hundred, &c. shall be utterly void."

In an Assurance for the Payment of fifty Shillings, for the Use of a hundred Pounds, for six Months, the Computation shall be by Calendar, and not by Lunar Months, by the latter the Interest would exceed the Rate allowed by the Statute.

The Receipt of Interest before the Time when it is in Strictness due, being voluntarily paid by the Debtor for the greater Convenience of the Creditor, or for any other such like Consideration, without any manner of corrupt Practice, or any previous Agreement of this Kind at the making of the first Contract, does not make the Party liable to the Forfeiture of the treble Value.

The Grant of an Annuity for Lives, not only exceeding the Rate allowed for Interest, but also exceeding the known Proportion for Contracts of this Kind, in Consideration of a certain Sum of Money, is not within the Meaning of the Statute, unless

1 Mod. 69.
3 Keb. 142.
2 Mod. 307.
1 Saund. 294.
Raym. 196.
2 Keb. 225.
690.
1 Bull. 17.

Yel 30. 31.
Noy 171.
2 Keb. 690.

Cro. Jac. 253.
Noy 151.
2 Levinz. 7, 8.
2 Rol. Ab. 782.

unless there were some underband Bargain for the Security of the Repayment of the Principal or Consideration Money,

No Contract is usurious, by which the Lender runs the Hazard of losing all his Money, Cro. Jac. 208, both Principal and Interest: As 209, 508, 509. where on the Loan of a certain Sum ¹ Keb. 539-711. for a Year, for the victualling of a ² Roll. Rep. 48. Ship, it is agreed, That if the Ship return, the Lender shall have so many thousand Fishes at such a Rate, which exceeds the Interest allowed by the Statute; and if the Ship never return, or if it perish by unavoidable Casualties of Sea, Fire or Enemies, that then he shall have ¹ Lev. 54. nothing: Or, whereon a Loan of ¹ Sid. 27. thirty Pound, a Bond is given for the Payment of One hundred Pounds, on the Marriage of a Daughter of one of the Parties; provided, that if either of them should die before ³ Keb. 304. that, then nothing should be paid: But Cro. Eliz. 741. it is clear, that if the Interest only be hazarded on such a Contract, and the whole principal secured, the whole is Usurious. ² Roll. Rep. 48. Also it hath been resolved, that an Agreement to pay more than lawful Interest for the Loan of a certain Sum at such a Day, if A. B. shall then be Alive, and if ⁵ Co. 70. be shall be Dead, then to pay such a Moore 397. Sum which is less than the Principal, Cro. Eliz. 642, is void by the Statute; for if such a 643, 741. Contingency would accept the Case out Lutw. 468, of the Statute, by the same Reason twenty Lives 469. might be added, and the Statute wholly evaded.

An Assurance made in Pursuance of a fair Agree-

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Cro. Jac. 677,
678.

2 Roll. Rep. 414.
415.

Hutley 11.

1 Jon. 396.

Cro. Car. 501.

2 Vent. 83.

ment for such Interest as is allowed by the Statute, shall not be avoided by the Fault of the Scrivener, who draws it up in such a Manner as to bring it within the express Letter of the Statute: As where the Parties agree, that five Pounds shall be paid for the Loan of One hundred Pounds for a Year, and the Scrivener in drawing the Bond for it, doth, without the Knowledge of the Parties, who are illiterate Persons, make the Bond payable in half a Year: Or, whereon the fair Loan of One hundred Pounds agreed to be paid with common Interest, a Mortgage is made for the Hundred Pound, with a Proviso, that it shall be made void on Payment of One hundred and five Pounds at the End of the Year, without any Covenant for the Mortgager to take the Profits till Default be made of Payment, so that in Strictness the Mortgagee is intitled both to the Interest and Profits.

2 Mod. 307.

2 Roll. Ab.

793, 798.

A Contract reserving to the Lender a greater Advantage than is allowed by the Statute, is equally within the Meaning of it, whether the whole be reserved by Way of Interest or in Part only under that Name, and in Part by Way of Rent for a House, Let at a Rate plainly exceeding the known Value.

Cro. Jac. 440

He, who hath agreed to pay Money upon an Usurious Contract, shall not be admitted to give Evidence upon an Information against the Usurer, unless he hath paid off the whole Debt; for by such

2 Roll. Ab. 685.

Raym. 191.

Means a Man might avoid his own Act and Deed.

An Indictment on the Statute of Usury setting forth, That the Defendant took more than five Pound in the Hun-

W I N D O W S. 403

Hundred, is not good, without shewing in Particular how much.

W I N D O W S.

Indictment for Breaking Windows of a Dwelling-house.

Middlesex. **T**HE Jurors, &c. present, That *A. B.* late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, bours, on the Day of in the Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Glass-Windows of the Dwelling-house of *E. L.* there situate, maliciously, unlawfully, and injuriously did break and destroy, and other Wrongs to the said *E. L.* then and there did, to the great Damage of the said *E. L.* and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 34. Edw. 3. c. 1. The Justices of Peace have Power to restrain Offenders and Rioters, and to arrest and chastise them according to their Offence, and to cause them to be imprisoned and duly punished; and,

By the Stat. 27. Rich. 2. c. 8. assoon as the Sheriff, and other the King's Ministers shall hear of a Riot, Rout, or other Assembly, against the Peace, they, with the Power of the Country, shall apprehend such Offenders, and put them in Prison until delivered by Law.

And the Stat. 1 Geo. 1. c. 5. is more severe against Rioters, if they meet to the Number of Twelve, adjudging them to be Felons, without Benefit

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ness of the Clergy, if they do not disperse within an Hour after Proclamation, &c. See Wood's Inst. 430.

And, by the Common Law, Offences of this Nature are punishable by Fine and Imprisonment, &c. Wood's Inst. 428.

PRE:

PRECEDENTS
OF
INDICTMENTS.
FOR
FELONIES, &c.

Against an Accessary to a Felony or Burglary before the Fact.

After you have drawn the Indictment against the Principal Felon, begin the Charge against the Accessary, on the same Piece of Parchment, as follows;

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That George Hall, late of the Parish of St. Mary Matfellow, otherwise Whitchappel, in the County of Middlesex aforesaid, Labourer, before the said Felony and * Burglary was committed in Form aforesaid, to wit, on the said ninth Day of December, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid,

* If for Felony only, leave out the Word Burglary.

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did feloniously and maliciously † incite, move, procure, aid and abet the said *A. B.* to do and commit the said Felony and Burglary in Manner and Form aforesaid, against the Peace of our said Lord the King his Crown and Dignity.

Against an Accessary in receiving the principal Felon.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *John King*, late of the Parish of *St. Mary Matfellow*, otherwise *Whitechappel* in the said County of *Middlesex*, Labourer, well knowing the said *A. B.* to have done and committed the said Felony and Burglary in Form aforesaid, afterwards to wit, on the said ninth Day of *December*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid in the County aforesaid, him the said *A. B.* did then and there * feloniously receive, harbour and maintain, against the Peace of our said Lord the King his Crown and Dignity.

Against an Accessary in receiving Stolen Goods.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present That *Lawrence Moon*, late of the said Parish of *St. Mary Mat-*

† *Instead of the Words incite, move, procure, aid, and abet, you may say, counsel, hire, or command. Vide. Stat. 3 & 4 W. & M. c. 9.*

* *See Stat. 5 Ann. c. 31. but this was always Felony at Common Law.*

fallen, otherwise *Whitechappel*, in the said County of *Middlesex*, Labourer, afterwards, to wit, on the tenth Day of *December*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, six Brass Candlesticks and four Pewter Dishes†, being Parcel of the Goods and Chattels so as aforesaid, feloniously and Burglariously stolen, taken, and carried away, feloniously did receive and have (he the said *Lawrence Moon* then and there well knowing the said Goods and Chattels last mentioned, to have been feloniously and burglariously stolen, taken, and carried away) against the Form of the Statute in that Case made and provided and against the Peace of our said Lord the King his Crown and Dignity.

Against an Accessary in receiving Goods knowing them to be stolen, Principal convicted in Surry, Accessary indicted in Middlesex, after the Principal convicted.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That at the Delivery of the Gaol of our Lord the King, of his County of *Surry*, holden at *Kingston* upon *Thames*, in and for the County aforesaid, on *Thursday* the twenty-fifth Day of *March*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before Sir *Edmond Probyn*,

† If he received all the Goods, then say the Goods and Chattels abovementioned, so as, &c.

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Knt. one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself, and *Richard Michel*, Esq; then Justices of our said Lord the King, assigned to deliver the said Gaol of the Prisoners therein being; *Matthew Turner*, late of the Parish of *Lambeth*, in the said County of *Surry*, Labourer, was convicted in due Form of Law, for that the said *Matthew Turner*, on the twenty-fourth Day of *December*, in the said seventh

Recite in the Indictment on which the Principal was convicted.

Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, seventeen Yards of Linnen Cloth, of the Value of thirty Shillings, of the Goods and Chattels of one *Thomas Watson*, then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity, as by the Record thereof remaining filed in the said Court of Gaol Delivery, may more fully and at large appear. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That *John Coates*, late of the Parish of *St. Martin*, in the *Fields*, in the County of *Middlesex*, Labourer, afterwards, to wit, on the said twenty-fourth Day of *December*, in the Year aforesaid, with Force and Arms, at the said Parish of *St. Martin* in the *Fields*, in the County of *Middlesex* aforesaid, the Goods and Chattels aforesaid, so as aforesaid feloniously stolen, taken, and carried away, feloniously did receive, and had (he the said *John Coates*, then and there well knowing the aforesaid Goods and Chattels to have been feloniously stolen, taken, and carried away) against the Form of the Statute in that Case made and provided, and against the Peace of

of our said Lord the King. his Crown and Dignity.

See the Stat. 2. & 3. Ed. 6. c. 24. § 4.

In High-Treason there are no Accessories; for the Advisers, Counselors, Persuaders, and Assistants, as also the Receivers knowing thereof, are all Principals, and the Act which makes a Man Accessary in Felony, the same makes him a Principal in High Treason.

Stamf. 40.
Pro. Treas. 19.

There are two Sorts of Accessories in Felony, the one before the Felony committed, the other after.

By the Stat. 4. & 5. Ph. & M. c. 4. every Person that shall maliciously command, hire or counsel any Person or Persons, to commit

or do any petit Treason, wilful Murder, or to do any Robbery in any Dwelling-House or Houses, or to commit or do any Robbery, in or near any Highway, in this Realm of England, or wilfully to burn any Dwelling-House, or any Part thereof, or any Barn then having Corn or Grain in the same, shall not have Clergy.

Accessaries before the Fact.

Stat. 8. Eliz. c. 4. for privately stealing from the Person extends not to any Accessories before or after.

Privately stealing from the Person.

By Stat. 31. Eliz. c. 12. § 5.

'tis enacted, That not only all Accessories before to Horse-stealing, but also all Accessories after such Felony, shall be deprived and put from all Benefit of their Clergy, as the Principal is or ought to be by the Stat. 1 Ed. 6. c. 12. 2 & 3 Ed. 6. c. 33.

Horse-stealers.

By Stat. 10. & 11. W. 3. c. 23.

All Persons that shall assist, hire, or command any Persons, privately and feloniously to steal any Goods, Wares,

Privately stealing Goods out of a Warehouse, &c.

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or Merchandises, in any Shop, Warehouse, Coach-house, or Stable, of the Value of five Shillings, shall be excluded from the Benefit of Clergy.

Whoever shall comfort, aid, abet, assist, counsel, hire, or command any Person or Persons, to break any Dwelling-house, Shop, or Ware-house, thereunto belonging, or therewith used in the Day-time, and feloniously take away any Money, Goods, or Chattels, of the Value of five Shillings or upwards, therein being, altho' no Person shall be within such Dwelling-house, Shop, or Ware-house, being convicted or attainted, or being indicted or standing mute, or challenging peremptorily above twenty, shall be excluded from their Clergy, by the express Words, 3 & 4 W. & M. c. 9.

Breaking Dwelling-Houses, &c. in the Day-Time.
See the Stat. 39 Eliz. c. 15. against the Principal.

And by the same Stat. 3 & 4 W. & M. c. 9. All and every Person or Persons, that shall comfort, aid, abet, assist, counsel, hire, or command any Person to rob another, shall likewise be excluded from the Benefit of their Clergy.

Robbery.

Also by the same Stat. 3 & 4 W. & M. c. 9.

Burglary.

Every Person who shall counsel, hire, or command any Person to commit any Burglary, being thereof convicted or attainted, or being indicted and standing mute, or challenging peremptorily above twenty, shall not have his Clergy.

Arson:

* Vide supra.

As to Arson, all Accessories to the Fact before, maliciously, are excluded in all Cases, by * 3 & 4 Ph. & M. c. 4.

Those who are present abetting and encouraging the

doing

doing any Murder or Rape, are Principals in the highest Degree, in Respect of such Abetement, as much as the Person who does the Fact. Murder and Rape.

Where a Woman is taken away against her Will, within the Meaning of the Stat. 3 H. 7.

c. 2. tho' the Receivers of the Woman are Principals; yet the Receivers of those who took the Woman are but Accessaries, and those Accessaries shall have the Benefit of Clergy, because it is after the Fact; for the Stat. 33. Eliz. c. 9. takes away the Benefit of Clergy from Principals, Aiders, and Abettors before the Fact only. Women.
Trin. 10. Jac.
Co. 12.
Pl. 100. Co. 3.
Inst. p. 61.

There are no Accessaries in Forgery, which is made Felony, but all are Principals. Forgery:
Moor. 666.

A Man may be an Accessary to an Accessary, if he receive him, &c. knowing thereof. Bro. Cor. 304.

None can be accessary in petty Larceny.

By the Stat. 3 & 4 W. & M. c. 9. Buyers and Receivers of stolen Goods, knowing them to be stolen, are to be deemed Accessaries after the Fact, and suffer as such.

But because Receivers often concealed principal Felons, and thereby escaped being punished as Accessaries,

By the Stat. 1 Ann. Stat. 2. c. 9. Whosoever shall buy or receive stolen Goods, knowing them to be stolen, may be prosecuted for a Misdemeanor, and punished by Fine and Imprisonment; tho' the principal Felon be not convicted. Vide Precedent antea.

And this will exempt them from being punish'd as Accessaries, if the Principal shall afterwards be convicted.

But by the Stat. 5. Ann. c. 21. If any Person shall

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shall receive or buy, knowingly, any stolen Goods, or knowingly harbour or conceal any Felon, he shall be taken as Accessary to the Felon, and shall suffer as a Felon; but this Statute does not take away Clergy: but by the Stat. 4 Geo. I. c. 11. Receivers to be transported for fourteen Years.

A S S A U L T,

For feloniously assaulting a Privy Counsellor in the Execution of his Office.

Middlesex. **T**HE Jurors for our Lady the Queen upon their Oath present That *A. L.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Esq; not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, on the sixth Day of *January*, in the eighth Year of the Reign of our Sovereign Lady *Anne* now Queen of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid in the County aforesaid, in and upon the Right Honourable Sir *E. H.* Knight, one of the Privy Counsellors of our said Lady the Queen in the Peace of God and our said Lady the Queen and in the due Execution of his said Office in Council, then and there being, feloniously did make an Assault, and him the said Sir *E. H.* did, then and there, feloniously strike and wound, against the Form of the Statute in such Case made and provided, in Contempt of our said Lady the Queen and his Laws, to the evil Example of all others
in

in the like Case offending, and against the Peace of our said Lady the Queen her Crown and Dignity.

By the Stat. 9. Ann. c. 16. 'tis enacted, That if any Person shall attempt to kill or unlawfully, assault, strike, or Wound any of her Majesty's Privy-Council, in the Execution of his Office in Council, or in any Committee of Council, being convicted thereof in due Form of Law, he is thereby declared to be a Felon, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

The Occasion of this Act; Robert Harley, Esq; (afterwards Earl of Oxford) was stab'd by Anthony Guiscard, who was then under Examination before a Committee of the Privy Council.

For feloniously and maliciously assaulting a Person in the Highway, and spoiling, cutting, and defacing his Garments and Cloaths.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That Isaac Jackson, late of the Parish of St. Leonard, Shoreditch, in the County of Middlesex, Weaver, Robert Davis, late of the same, Labourer, and Richard Row, late of the same, Weaver, being Persons of wicked and malicious Minds, after the 24th Day of June, in the Year of our Lord, One thousand seven hundred and twenty, to wit, on the sixteenth Day of September, in the eighth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. with Force and Arms, at the Parish of St. Andrew, Holborn, in the County

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County aforesaid, in a public Street and Highway there, called *Holborn*, in and upon *Elizabeth Maddock*, Spinster, in the Peace of God and our said Lord the King, in the said public Street and Highway, then and there being, wilfully maliciously, and feloniously did make an Assault, with an Intent to tear, spoil, cut, and deface the Garments and Cloaths of her the said *Elizabeth Maddock*, and, with Force and Arms, did, in the said public Street and Highway, then and there, wilfully, maliciously, and feloniously tear, spoil, cut, and deface one printed Linen Gown, of the Value of thirty Shillings, of the Goods and Chattels of the said *Elizabeth Maddock*, being Part of the Garments and Cloaths of her the said *Elizabeth Maddock*, on her Person then and there in wear, against the Form of the Statute in that Case made and provided, to the great Damage of her the said *Elizabeth Maddock*, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 6 Geo. I. c. 1. 'tis enacted, That if any Person or Persons, shall at any Time or Times, from and after the twenty-fourth Day of June, in the Year of our Lord, One thousand seven hundred and twenty, wilfully and maliciously assault any Person or Persons, in the public Streets or Highways, with an Intent to tear, spoil, cut, burn, or deface the Garments and Cloaths of such Person or Persons, that then, all, and every such Person or Persons, so offending, being thereof lawfully convicted, shall be, and be adjudged guilty of Felony, and every such Felon shall be subject and liable to
like

like Pains and Penalties as in Cases of Felony; and the Courts, by and before whom he, she, or they shall be tried, shall have full Power and Authority of transporting such Felons for the Space of seven Years.

For a felonious Assault with Intent to rob.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Gibbet*, late of the Parish of *St. Botolph*, without *Aldgate*, in the County of *Middlesex*, Labourer, being a wicked and ill-dispos'd Person, after the first Day of *May*, in the Year of our Lord, One thousand seven hundred and thirty four, to wit, on the sixteenth Day of *October*, in tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, with Force and Arms, to wit, with a certain Pistol which he the said *John Gibbet*, in his Right Hand, then and there had and held, in and upon one *Thomas Trueman*, in the Peace of God and our said Lord the King, then and there being, unlawfully, maliciously, and feloniously did make an Assault, with a felonious Intent, the Monies of the said *Thomas Trueman*, from the Person, and against the Will of him the said *Thomas Trueman*, then and there, feloniously to steal, take, and carry away, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Here-

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Heretofore this Offence was but a Misdemeanor, but the Punishment not being adequate to the Heinousness of the Crime, nor sufficient to deter wicked Persons from such Attempts; it is enacted, by the Stat. 7. Geo. 2. c. 21. That if any Person or Persons, from and after the first Day of May, One thousand seven hundred and thirty-four, shall, with any offensive Weapon or Instrument, unlawfully and maliciously assault, or shall with Me-

** If with Menaces, say what Menaces, in the Indictment.*

naces, or any forcible or violent Manner, demand any Money, Goods or Chattels, of or from any Person or Persons, that in every such Case, all and every such Person or Persons, so offending, being thereof lawfully convicted, shall be, and be adjudged guilty of Felony, and shall be subject and liable to be transported, as in Cases of Felony; and the Courts before whom they are tried and convicted, shall have full Power and Authority of transporting such Offenders for the Space of seven Years, upon the like Terms and Conditions, and by the same Ways and Means, and in like Manner as other Felons may or are to be transported to any of his Majesty's Colonies and Plantations in America, by Force or Virtue of any Law for that Purpose now in being.*

Such Convicts breaking Gaol, or unlawfully returning from Transportation, shall suffer Death as Felons without Benefit of Clergy.

N. B. This is a perpetual Law, and no Time limited to prosecute.

B A I L.

B A I L

For feloniously personating another Person, and becoming Bail in his Name before a Commissioner appointed to take Bail in the Country.

Norfolk. **T**HE Jurors for our Lord the King upon their Oath present, That on the sixteenth Day of *September*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain, &c.* our said Lord the King, by his Writ of *Capias* issued out of the Court of our said Lord the King of *Common-Bench* at *Westminster*, bearing Date the same Day and Year directed to the the Sheriff of *Norfolk*, did command the said Sheriff, that he should take *James Robinson*, late of *Yeoman*, and *John Doe*, if they should be found in his Bailiwick, and safely keep them, so that he might have their Bodies before the Justices of our said Lord the King at *Westminster*, in three Weeks from the Day of *St. Michael*, to answer to *David Davidson*, of a Plea, that he render to him fifty Pounds, which he owed to and unjustly detained from him, which same Writ afterwards, and before the Return of the same, to wit, on the eighteenth Day of *September*, in the Year aforesaid, at (the Place where delivered to the Sheriff) was delivered to *Anthony Spicer, Esq;* Sheriff of the County aforesaid, in Form of Law to be executed, which said *Anthony Spicer*, Sheriff of the County aforesaid, by Virtue of the Writ aforesaid afterwards, and before the Return of the said Writ, to wit, on the said eighteenth

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eighteenth Day of *September*, in the Year afore-
said, did make a certain Warrant of him the said
Sheriff, under his Seal, directed to *Simon Catchem*
and *Richard Roe*, his Bailiffs of the Hundred of

in the County aforesaid, by which he
commanded them jointly and severally, that they
should take the said *James Robinson* in the Writ
above-named, to answer to the said *David David-*
son of a Plea that he render to him fifty Pounds,
which he owed to and unjustly detained as afore-
said; and that the said *Simon Catchem*, in the
Warrant aforesaid named, afterward and before
the Return of the said Writ, to wit, on the twenty-
fifth Day of *September*, in the Year aforesaid, by
Virtue of the Writ and Warrant aforesaid, at (*at*
the Place) in the County aforesaid, did take and
arrest the said *James Robinson* in the said Writ and
Warrant above named, according to the Com-
mand of the Writ and Warrant aforeaid, and him
the said *James Robinson*, then and there had in
his Custody, by Virtue of the said Writ and
Warrant aforeaid. And that *John Mason* late of

in the County aforeaid, Yeoman,
being a malicious and ill-designing Person, and
wickedly contriving and intending to prejudice,
and bring one *Charles Goodman* to great Expences,
and unlawfully to subject him, the said *Charles*
Goodman, to the Payment of a great Sum of Mo-
ney afterwards (to wit) on the said twenty-fifth
Day of *September*, in the Year aforeaid, at

in the County aforeaid, in his own proper
Person, came before *James Fisher*, Gent. and then
and there, with Force and Arms, feloniously did
represent and personate the Person of the said
Charles Goodman, of in the County afore-
said, Yeoman, and in the Name and by the Addi-
tion of him the said *Charles Goodman*, did become

Bail

Bail for the said *James Robinson*, in a certain Recognizance taken before the said *James Fisher*, in the Action aforesaid (he the said *James Fisher*, then and there having full and lawful Power and Authority, by Virtue of a Commission under the Seal of the said Court of *Common-Bench*, to take a Recognizance in that Behalf, in the said County of *Norfolk*, according to the Form of the Statute in such Case made and provided) by which said Recognizance, he the said *John Mason* (by feloniously representing and personating the Person of the said *Charles Goodman*) in the Name, and by the Addition of him the said *Charles Goodman* as aforesaid, before the said *James Fisher*, then and there unlawfully and feloniously did acknowledge to owe to the said *David Davidson*, the Sum of fifty Pounds, to be levied upon the Goods and Chattels, Lands and Tenements of him the said *Charles Goodman*, upon Condition, that if the said *James Robinson* should be condemned in the said Action, he, the said *James Robinson*, should pay the Condemnation-Money, or render himself into the *Fleet* for the same; or, if he fail'd so to do, he the said *Charles Goodman*, (meaning the said *Charles Goodman* of in the County of *Norfolk* aforesaid, Yeoman, so represented and personated by the said *John Mason* as aforesaid) did undertake to do it for him (meaning the said *James Robinson*) whereby the said *Charles Goodman*, so represented and personated as aforesaid, was liable to the Payment of the said Sum of fifty Pounds, to be recovered in the same Action, as if he had really himself acknowledged and entered into the said Recognizance, against the Form of the Statute in such Case made and provided, to the evil Example of all others in the like Case offending, to the great Damage of the said *Charles Goodman*,

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Goodman, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 4. *W. & M. c. 4.* (intituled, An Act for taking special Bails in the Country, upon Actions and Suits depending in the Courts of King's-Bench, Common-Pleas, and Exchequer at Westminster) 'Tis enacted, That, if any Person or Persons shall (before any Person or Persons empowered by Virtue of this Act to take Bail or Bails) represent or personate any other Person or Persons, whereby the Person or Persons so represented or personated, may be liable to the Payment of any Sum or Sums of Money for Debt or Damages to be recovered, in the same Suit or Action, wherein such Person or Persons are represented and personated, as if he or they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted or attainted, do, by the Law of England, lose and Forfeit.

By the Stat. 21 *Jac. 1. c. 26.* All Persons who shall acknowledge, or procure to be acknowledged, any Fine or Fines, Recovery or Recoveries, Deed or Deeds inrolled, Statutes or Recognizances, Bail or Judgment, in the Name of any Person or Persons not privy or consenting to the same, and being thereof lawfully convicted or attaint, shall incur the Penalties of Felons without Benefit of Clergy.

No Corruption of Blood nor loss of Dower.

A Bail before a Judge was not Bail within this Statute, 'till it was filed of Record, and if it was not filed, the acknowledging thereof in another's Name was not Felony, but a Misdemeanor only; but now 'tis Felony by the Stat. 4 *W. & M. c. 4.*

B A N K-

BANKRUPT.

Against a Bankrupt for not surrendering himself to the Commissioners to be examined, touching his Effects.

London. **T**HE Jurors for our Lord the King upon their Oath present, That *William Gwin*, late of the Parish of *St. Paul Shadwell*, in the County of *Middlesex*, Mariner and Merchant, on the sixth Day of *November*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. and for the Space of one whole Year, then last past, at the Parish aforesaid, in the said County of *Middlesex*, did use and exercise the Trade of Merchandize, by way of Bargaining, Exchange, Bartering, and Chevisance; and during the whole Time aforesaid, did then and there seek his Trade of Living by Buying and Selling; and the said *William Gwin*, so as aforesaid, using and exercising the Trade of Merchandize, by way of Bargaining, Exchange, Bartering, and Chevisance, and seeking his Trade of Living, by Buying and Selling, on the said sixth Day of *November*, in the said eighth Year of the Reign of our said now Lord the King, at the Parish aforesaid, in the said County of *Middlesex*, became indebted to *Solomon Took*, a Creditor of him the said *William Gwin*, in the Sum of one hundred and forty Pounds, of lawful Money of *Great Britain*, for a just and true Debt; and being so indebted, and so as aforesaid, using and exercising the Trade of Merchandize, he the said *William Gwin*, afterwards, to wit, on the said sixth Day of *November*

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ber, in the said eighth Year of the Reign of our said now Lord the King, at the Parish aforesaid, in the County aforesaid, became a Bankrupt; and afterward, to wit, on the sixteenth Day of *May*, in the eighth Year aforesaid, a certain Commission of our said Lord the King, upon the Statutes made and provided concerning Bankrupts, was duly awarded and issued out of the Court of *Chancery* of our said now Lord the King, under the Great Seal of *Great Britain*, against the said *William Gwin*, the Bankrupt aforesaid, bearing Date at *Westminster* the same Day and Year last mentioned; by which same Commission our said Lord the King did name, assign, appoint, constitute and ordain *Thomas Lane*, *Edward Simpson*, *John Welles*, and *Alexander Hamilton*, Esqrs; his special Commissioners, thereby giving full Power and Authority to the same Commissioners, four or three of them, to proceed according to the Statutes in the same Commission mentioned, and all other Statutes in Force concerning Bankrupts, not only concerning the said Bankrupt, his Body, Lands, Tenements, Freehold, and Customary Goods, Debts, and other Things whatsoever, but also concerning all other Persons, who by Concealment, Claim, or otherwise, did or should offend touching the Premises in the same Commission specified, or any Part thereof, contrary to the true Intent and Meaning of the said Statutes; to do and execute all and every Thing and Things whatsoever, as well for and towards Satisfaction and Payment of the Creditors of the said *William Gwin*, and for all other Intents and Purposes, according to the Ordinance and Provision of the same Statutes, as by the Commission aforesaid (among other Things therein contained) doth more fully appear; and afterwards, to wit, on the twenty-third

third Day of *May*, in the said eighth Year of the Reign of our said now Lord the King at *London*; that is to say, at the Parish of *St. Michael Bassishaw*, in the Ward of *Bassishaw*, in *London* aforesaid, the said *William Gwin* was, by the said *Thomas Lane*, *John Welles*, and *Alexander Hamilton*, three of the aforesaid Commissioners, in the said Commission named, in due Form of Law, declared a Bankrupt, within the true Intent and Meaning of the several Statutes made concerning Bankrupts, some or one of them; whereupon, afterwards, to wit, on the twenty-seventh Day of *May*, in the eighth Year aforesaid, Notice in Writing was left at the Dwelling-House of the said *William Gwin*, situate in a certain Place called in the said Parish of *St. Paul Shadwell*, in the said County of *Middlesex* (the same House then being the usual Place of Abode of the said *William Gwin*) that a Commission of Bankruptcy had been awarded against him the said *William Gwin*, late of the Parish of *St. Paul Shadwell*, in the County of *Middlesex*, Mariner and Merchant; and that the said *William Gwin* had been declared a Bankrupt by Virtue of the then present Acts of Parliament, relating to Bankrupts; and he the said *William Gwin* was by the said Notice commanded and required to surrender himself to the said *Thomas Lane*, *John Welles*, and *Alexander Hamilton*, being the major Part of the Commissioners in the said Commission named and authorized, on the third and thirteenth Days of *June* then next, and on the eighth Day of *July* following, at three of the Clock in the Afternoon, at the *Guildhall* of the City of *London*, on each of the said Days respectively, then and there to submit himself to be examined from Time to Time, and in all Things to conform himself to the Directions of the Acts

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aforesaid,

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aforesaid, and afterwards, to wit, on the said twenty-seventh Day of *May*, in the said eighth Year of the Reign of our said now Lord the King, Notice was given and published in a certain printed Paper, called the *London Gazette*, that a certain Commission of Bankruptcy had been awarded against the said *William Gwin*, late of the Parish of *Saint Paul Shadwell*, in the County of *Middlesex*, Mariner and Merchant, and that he had been declared a Bankrupt; and he the said *William Gwin* was by the same Notice, so as aforesaid published in the said *London Gazette*, required to surrender himself to the Commissioners on the third and thirteenth Days of *June*, and on the eighth Day of *July* following, at three of the Clock in the Afternoon at the *Guildhall, London*; and make a full Discovery and Disclosure of his Estate and Effects. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that afterward, to wit, upon the thirtieth Day of *June*, in the Year of our Lord One thousand seven hundred and thirty-five, *Charles Lord Talbot*, Baron of *Hensol*, then Lord Chancellor of *Great Britain*, by a certain Order, bearing Date the Day and Year last aforesaid, pursuant to the Statute in that Case made and provided, did enlarge the Time for the said *William Gwin*'s surrendering himself, and discovering and disclosing his Estate and Effects for fifty Days to be computed from the eighth Day of *July* aforesaid, and afterward, to wit, on the twelfth Day of *July*, in the said Year of our Lord one thousand seven hundred and thirty-five, and in the ninth Year of the Reign of our said now Lord the King. Notice was given and published in a certain printed Paper, called the *London Gazette*, that the said Lord High-Chancellor of *Great Britain*

tain had enlarged the Time for the said *William Gwin*, late of the Parish of *Saint Paul Shadwell*, in the County of *Middlesex*, Mariner and Merchant. against whom a Commission of Bankruptcy had been awarded, to surrender and finish his Examination within the Space of fifty Days, to be computed from the eighth Day of *July* then instant; and that the Commissioners did intend to meet on the twenty-seventh Day of *August* then next, at three of the Clock in the Afternoon, at the *Guildhall, London*; at which Time the said Bankrupt, by the said last mentioned *Gazette*, was required to surrender and finish his Examination; yet he the said *William Gwin*, late of the said Parish of *Saint Paul Shadwell*, in the County of *Middlesex* aforesaid, Mariner and Merchant, lightly regarding the Laws and Statutes of this Realm, and not fearing the Pains and Penalties contained therein, did not, upon the said twenty-seventh Day of *August*, or upon any of the Days and Times for the Purpose before mentioned, or at any other Time whatsoever, surrender himself to the aforesaid *Thomas Lane, Edward Simpson, John Welles*, and *Alexander Hamilton*, the said Commissioners in the said Commission named, or to the major Part of them, and submit to be examined as aforesaid, but did feloniously and wilfully make Default, and omit and neglect to surrender himself to, and to be examined by and before the said Commissioners, or the major Part of them, as aforesaid; that is to say, at the *Guildhall* in *London* aforesaid, in the said Parish in *Saint Michael Bassishaw*, in the Ward aforesaid, in *London* aforesaid, against the Form of the Statute in such Case made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity.

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A Bankrupt not surrendering himself, and submitting to be examined, or concealing or imbezling his Effects, is guilty of Felony Stat. 5. Geo. 2. c. 30 § 11. Those that conceal or protect Bankrupts Effects, how punished? § 20, 21.

BASTARDY.

For Felony in concealing the Death of a Bastard Child.

Northampton. **T**HE Jurors for our Lord the King upon their Oath Present, That *Mary Loofey*, late of *Chappel-Brampton* in the County of *Northampton*, Spinster, on the seventh Day of *February*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. being big with a Male Child the same Day and Year, at *Chappel-Brampton* aforesaid, in the County aforesaid, by the Providence of God, did bring forth the said Child alive, of the Body of her the said *Mary* alone, and in secret; which said Male Child, so being born alive, by the Laws of this Realm, was a Bastard; and that the said *Mary Loofey*, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, afterward, to wit, on the said seventh Day of *February*, in the Year aforesaid, as soon as the said male Bastard Child was born, with Force and Arms, at *Chappel-Brampton* aforesaid, in the County aforesaid, in and upon the said Child, in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of her Malice aforethought, did make an Assault; and that she the said *Ma-*
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ry, with both her Hands about the Neck of him the said Child, then and there fixed him the said Child, then and there feloniously, wilfully, and of her Malice aforethought, did choak and strangle, of which said Choaking and Strangling, the said Child then and there instantly died; and so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *Mary Loofey*, him the said Male Bastard Child, in Form aforesaid, feloniously, wilfully, and of her Malice aforethought, did kill and murder, against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 21 Jac. 1. c. 27. 'tis enacted, That if any Woman be delivered of any Issue of her Body, Male or Female, which being born alive, should by the Laws of this Realm be a Bastard, and that she endeavour privately, either by drowning, or secret burying thereof, or any other Way, either by herself, or procuring others to conceal the Death thereof, as that it may not come to light, whether it were born alive or not, but be concealed, in every such Case the Mother shall suffer Death, as in a Case of Murder, except such Mother can make Proof by one Witness at the least, that the Child (whose Death was by her so intended to be concealed) was born Dead.

The Indictment to put the Prisoner to this Proof, by one Witness, that the Child was dead born, must contain this special Matter, That the Prisoner was delivered of a Child, which by the Laws of the Kingdom was a Bastard, and that it was born alive, and shew how she kill'd it.

But the Indictment need not alledge, that she concealed it; but it must be proved upon Evidence,

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if the Advantage be taken of the Statute against her

* The Indictment need not conclude against the Form of the Statute ; for the Statute only directs the Evidence, where the Case is within it, but creates not a new Crime.

If there is no Concealment proved, yet it is left to the Jury to inquire, whether she murder'd it, or not, by those Circumstances that occur in this Case, as if it be wounded or hurt, &c. but it does not put her upon an absolute Necessity of proving it born alive, by one Witness, and so the Evidence stands but as at Common Law.

If upon View of the Child, it be testified by one Witness, by apparent Probabilities, that the Child was not come to its Debitum Partus Tempus, as if it have no Hair or Nails, or other Circumstances, this (says the Lord Chief Justice Hale, in his second Volume Historiæ Placitor. Coronæ, cap. xxxix.) I have always taken to be a Proof by one Witness, that the Child was born dead, so as to leave it nevertheless to the Jury, as upon a Common Law Evidence, whether she were guilty of the Death or not,

B I G A M Y.

For Marrying a Second Husband or Wife, the former being Living.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That W. R. late of the Parish of St. Sepulcher, in the County of Middlesex, Labourer, on the first

* See Ann Davis's Case, Keyl. 32.

Day of *July*, in the eleventh Year of the Reign of his late Majesty King *George* the First, of *Great Britain*, &c. at *London*, to wit, in the Parish of *St. Bridget*, otherwise *Brides*, in the Ward of *Farringdon-without*, did Marry one *F. U.* Spinster, and her the said *F.* then and there had for his Wife; and that the said *W. R.* afterwards, to wit, the fourth Day of *April*, in the third Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at *London* aforesaid, to wit, in the said Parish of *St. Bridget*, otherwise *Brides*, in the said Ward of *Farringdon-without*, feloniously did Marry, and to Wife did take one *M. T.* Spinster, and to the said *M.* then and there was Married (the said *F.* his former Wife being then Living, and in full Life) against the Form of the Statute in such Case made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That afterward, to wit, on the second Day of *October*, in the sixth Year of the Reign of our said Lord King *George* the Second, the said *W. R.* at the said Parish of *St. Andrew*, *Holborn*, in the said County of *Middlesex*, was apprehended and taken for the Felony. aforesaid.

This Part omitted when the Delinquent is taken where the Felony was committed.

By the Stat. 1 Jac. 1. c. 11. This Offence is Felony, and punishable with Death, but no Mention made of Clergy, so that Clergy has been for the most Part, or always allowed to Offenders, and the Parties may be proceeded against in the County where they shall be apprehended, as if the Offence

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Offence had been committed in that County, and is the Reason why the Caption of the Party is added to the Indictment, in Order to make the Offender culpable of Felony, in such County where he shall be so apprehended; which latter Part of the Indictment is to be omitted, if the Offender be tried where the Felony was actually committed.

Not to extend to Persons whose Husband or Wife shall be continually remaining beyond the Seas, by the Space of seven Years together, or whose Husband or Wife shall absent him or her-self for the like Space, in any Part within his Majesty's Dominions, the one of them not knowing the other to be Living within that Time. Nor to extend to Persons, divorced, or to Persons, where the former Marriage shall be declared to be void by Sentence in the Ecclesiastical Court; nor to any Person or Persons, for or by Reason of any former Marriage within Age or Consent.

This is a perpetual Law, and no Time limited to prosecute.

Other Offences against the Rights of Marriage are looked upon as Spiritual Offences, and Punishable only by the Ecclesiastical Law. Cro. Eliz. 94.

<i>Those divorced a Vinculo Matrimonii, and those</i> The Construc- <i>tion of the Stat.</i> <i>1 Jac. 1. c. 11.</i> <i>3 Inst. 89.</i> <i>H. P. C. 122.</i> <i>Keyling 27.</i> <i>Cro. Car. 561,</i> <i>462. this is made</i> <i>a Query.</i>	<i>divorced a Mensa & Thoro Cauſa</i> <i>Adulterii or Sevitæ, are within</i> <i>the Exception of the Statute, not-</i> <i>withstanding there be not the Words</i> <i>We Divorce, but only the Words</i> <i>We Separate, in the Sentence; the</i> <i>Statute, being penal, shall be favour-</i> <i>ably construed, and such Separations</i> <i>are</i>
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are taken for Divorces in common Understanding.

If the first Marriage was beyond Sea, and the latter in England, the Party is indictable here, for 'tis the second Marriage that makes the Offence; but if the first Marriage was in 1 Sid. 171.

England; the latter beyond Sea, 'tis Kelynge 80.

*said the Offender cannot be indictable here; but the Words of the Statute are, " That the Parties so
" offending shall receive such and the like proceeding,
" Trial and Execution, in such County, where such
" Person or Persons shall be apprehended, as if
" the Offence had been committed in such County,
" where such Person or Persons shall be taken or
" apprehended.*

BLACK ACT.

*For Felony; in appearing armed,
disguised and stealing Deer in an
inclosed Park.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present That *A. B.* late of the Parish of *Enfield*, in the County of *Middlesex*, Labourer, *C. D.* late of the same, Labourer, and *E. F.* late of the same Labourer, being ill designing and disorderly Persons, not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the first Day of *June*, One thousand seven hundred and twenty-three, to wit, on the sixth Day of *December*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. being armed with Pistols and other offensive Weapons, having their Faces blacked
and

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and disguised, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in a certain Park there lying and being, (inclosed with Wooden Pales, where Deer had been usually and then were kept, belonging to Sir *Jeremiah Sambrook*, Bart.) unlawfully and feloniously did enter and appear, and one Fallow Deer of the Price of forty Shillings, of the Goods and Chattles of the said Sir *Jeremiah Sambrook*, in the same Park, then and there being found with Force and Arms, then and there unlawfully, wilfully and feloniously did hunt, wound, kill, destroy, steal, take and carry away, against the Form of the Statute in such Case made and provided, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. c. 22. If any Person or Persons, from and after the first Day of June, in the Year of our Lord One thousand seven hundred and twenty-three, being armed with Swords, Fire-Arm, or other offensive Weapons, and having his or their Faces blacked, or being otherwise disguised, shall appear in any Forest, Chase, Park, Paddock or Ground inclosed with any Wall, Pale, or other Fence, wherein any Deer have been or shall be usually kept, or in any Warren or Place where Hares or Conies have been or shall be usually kept, or in any high Road, open Heath, Common or Down, or shall unlawfully and wilfully hunt, wound, kill, destroy or steal any Red or Fallow Deer, or unlawfully rob any Warren or Place where Conies or Hares are usually kept, He or They shall suffer Death as in Cases of Felony, without Benefit of Clergy. The Continuation of this Act, vide under Arson hereafter. For

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*For Felony ; in breaking down the
Head and Mound of a Fish-Pond,
whereby the Fish were lost.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, being an evil-disposed Person, after the first Day of *June*, in the Year of our Lord One Thousand seven hundred and twenty-three, to wit, on the eighth Day of *January*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Head and Mound of a certain Fish-Pond, in a certain Orchard belonging to *James Daws*, Esq; there situate and being; unlawfully, maliciously and feloniously did break down, whereby the Fish in the same Pond then and there being were lost and destroyed, to the great Damage of the said *James Daws*, against the Form of the Statute in such Case made and provided, to the evil Example of all others in like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. c. 22. If any Person or Persons, from and after the first Day of June, One thousand seven hundred and twenty-three, shall unlawfully and maliciously break down the Head or Mound of any Fish-Pond, whereby the Fish shall be lost or destroyed, He or They, shall suffer Death as in Cases of Felony, without Benefit of Clergy. " Continued as before mentioned.

For

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For Felony; in maliciously cutting down two Elm Trees, growing for Ornament.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Thomas Stone*, late of the Parish of *Fulham*, in the County of *Middlesex*, Labourer, after the first Day of *June* in the Year of our Lord One thousand seven hundred and twenty-three, to wit, on the third Day of *April*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, unlawfully, maliciously, and feloniously did cut down and destroy two Elm Trees, in a certain Avenue to the Dwelling-House of one *William Smith*, there planted and then growing for Ornament (he the said *William Smith* then being the Owner of the said Trees) to the great Damage of the said *William Smith*, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9. Geo. 1. c. 22. If any Person or Persons from and after the first Day of June One thousand seven hundred and twenty-three, shall maliciously cut down, or otherwise destroy, any Trees planted in any Avenue, or growing in any Garden, Orchard, or Plantation for Ornament, Shelter, or Profit, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony without Benefit of Clergy. Continued as before-mentioned.

For

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For Felony; in forcibly rescuing a Person from a Constable, charged with feloniously, &c. sending a Letter, without a Name subscribed, demanding Money.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the seventh Day of *Februaay*, in the sixth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. one *Isaac Wilson*, at the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, was brought by *John Button*, then being one of the Constables of the same Parish, before *John Poulson*, Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County, and the said *Isaac Wilson*, then and there was charged upon the Oath of *Simon Falstep*, for feloniously, knowingly, and maliciously sending a certain Letter to *John Foretop*, demanding Money, and the said *Isaac Wilson* was then and there examined before the said *John Poulson*, the said Justice, touching and concerning the aforesaid Felony, and thereupon the aforesaid *John Poulson*, the said Justice, then and there in due Form of Law, did make a certain Warrant, under his Hand and Seal, bearing Date the said seventh Day of *February*, in the Year of our Lord One thousand seven and thirty-two, directed to the Keeper of *Newgate*, or his Deputy, commanding them to receive into Custody

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Custody the Body of the said *Isaac Wilson*, charged upon the Oath of the said *Simon Falstep*, with feloniously, knowingly, and maliciously sending a Letter, without any Name subscribed, to *John Foretop*, demanding Money, and the said Justice by his Warrant aforesaid, did command the said Keeper to safely keep the said *Isaac Wilson* in Custody until he the said *Isaac Wilson* from thence should be discharged by due Course of Law; which same Warrant afterward, to wit, on the said seventh Day of *February*, in the said sixth Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County aforesaid, was delivered to the said *John Button*, then and there being one of the Constables of the said Parish, and the said *John Button*, him the said *Isaac Wilson* in his Custody, by Virtue of the said Warrant, and for the Cause aforesaid, then and there had; and that *James Weatherhead*, late of the Parish aforesaid, in the County aforesaid, Labourer, *Jasper Wilkins*, late of the same, Labourer, and *Thomas Wood*, late of the same, Labourer, being ill-designing and disorderly Persons, and not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, but wickedly and unlawfully contriving and intending to pervert the due Course of Law, and to cause the said *Isaac Wilson* to escape with Impunity, afterwards to wit, on the said seventh Day of *February*, in the said sixth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *John Button*, (then and there being Constable as aforesaid, and then and there lawfully having the said *Isaac Wilson* in his Custody, by Vir-
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tue of the said Warrant, and for the Cause aforesaid) in the Peace of God, and our said Lord the King, and in due Execution of his said Office, then and there being, did make an Assault; and that the said *James Weatherbread*, *Jasper Wilkins*, and *Thomas Wood*, the said *Isaac Wilson*, out of the Custody of the said *John Button*, and against the Will of him the said *John Button*, then and there with Force and Arms, unlawfully, forcibly, and feloniously did rescue, and put at large to go where he would, to the great Hindrance of Justice, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. cap. 22. If any Person or Persons, from and after the first Day of June, One thousand seven hundred and twenty three, shall forcibly rescue any Person, being lawfully in Custody of any Officer, or other Person for any of the Offences, in the Statute mentioned, He or They, shall be adjudged guilty of Felony and shall suffer Death, as in Cases of Felony, without Benefit of Clergy. Continued as under the next for Arson.

See before Title Escape and Title Prison.

Arson; or wilfully burning a House.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. G.* late of the Parish of *Fryan Barnet*, in the County of *Middlesex*, Labourer, not ha-

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ving the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, after the first Day of June, in the Year of our Lord, One thousand seven hundred and twenty-three, to wit, on the second Day of June, in the sixth Year of the Reign of our Sovereign Lord George the Second, King of Great Britain, &c. about the Hour of Two in the Night of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, a certain House * of one G. S. there situate, feloniously, voluntarily, and maliciously did set fire to, and the same House, then and there by such Firing as aforesaid, feloniously, voluntarily, and maliciously did burn and consume, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Arson, is a malicious and voluntarily burning the House of another by Night or by Day. 3. Inst. 66. Felony at Common Law of the highest Nature. And by Briton, Offenders were burnt to Death.

To set fire to any House, Barn, or Out-house, Hovel, Cock, Mow, or Stack of Corn, Straw, Hay, or Wood, was made Felony without Benefit of Clergy, by the Stat. 9. Geo. 1. c. 22. continued by 12 Geo. 1. cap. 30. 6 Geo. 2. cap. 37. and further continued by 10 Geo. 2. 'till September 1, 1744, and further continued by Stat. 17. Geo. 2. c. 40 to 24 June, 1751. and from thence to the End of the next Session of Parliament.

* Sufficient without saying Dwelling-House. Co. P. C. p. 67. If

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If the House or other Thing mentioned in the Stat. of the ninth of Geo. 1. is set Fire to, and not consumed, you conclude the Indictment at these Words. "Set Fire to against the Form of the Statute, &c.

For Felony; in maliciously killing a Gelding.

Essex. **T**HE Jurors for our Lord the King upon their Oath present, That *A.H.* late of the Parish of *Chelmsford*, in the County of *Essex*, Labourer, being an ill-designing and disorderly Person, and of a wicked and malicious Mind, after the first Day of *June*, in the Year of our Lord, One thousand seven hundred and twenty-three, to wit, on the seventh Day of *September*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, with Force and Arms, at the Parish of *Fryerning*, in the County aforesaid, one black Gelding, of the Price of fourteen Pounds, of the Goods and Chattels of one *Jacob Johnson*, in a certain Field belonging to him the said *Jacob Johnson*, then and there being, feloniously, unlawfully, wilfully, and maliciously, then and there did kill and destroy, to the great Damage of him the said *Jacob Johnson*, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 9 Geo. 1. c. 22. If any Person,
after the first Day of June 1723, shall un-
lawfully

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lawfully and maliciously kill, maim, or wound any Cattle, he shall suffer Death as in Cases of Felony, without Benefit of Clergy. This Law continued as before mentioned.

Note, by the Stat. 22 & 23 Car. 2. c. 7. whoever shall, in the Night-time, maliciously, &c. burn any Stacks of Corn, Hay, or Grain, Barns, or other Houses, or Buildings, or Kilns; or shall in the Night-time, maliciously, &c. kill or destroy Horses, Sheep, or other Cattle, shall be guilty of Felony; but Liberty is given the Offender to chuse Transportation for seven Years.

For Felony; in maliciously shooting at a Person in his Dwelling House.

Surry. **T**H E Jurors for our Lord the King upon their Oath present, That *A. N.* late of the Parish of *Croydon*, in the County of *Surry*, Labourer, being an ill-designing and disorderly Person, of a wicked and malicious Disposition, and not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the first Day of *June*, in the Year of our Lord, One thousand seven hundred and twenty-three, to wit, on the eight enth Day of *May*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, with a certain Gun loaded with Gun-powder, and a leaden Bullet, which he the said *A. N.* in both his Hands, then and there had and held, he the said *A. N.* with the said Gun so being loaded as aforesaid, did

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did then and there wilfully, maliciously, unlawfully, knowingly and feloniously shoot at *A. D.* Esq: (the said *A. D.* then and there being in his own Dwelling-House) against the Form of the Statute in such Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the said Stat. 9. Geo. 1. c. 22. If any Person after the first of June, 1723, shall wilfully and maliciously shoot at any Person, in any Dwelling-House, or other Place, He shall suffer Death as in Cases of Felony, without Benefit of Clergy. This Law continued as before-mentioned.

Upon this Clause Edward Arnold was convicted at Surry, Lent Assises, 1724, for shooting at Lord Onslow.

*For Felony ; in sending a Letter,
without a Name subscribed, demand-
ing Money.*

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *C. D.* late of the Parish of *St. Clement Danes*, in the County of *Middlesex*, Labourer, being an ill-disposed Person, and seeking wicked Gain, and little regarding the Laws and Statutes of this Kingdom, nor the Pains nor Penalties therein contained, after the first Day of *June*, in the Year of our Lord, One thousand seven hundred and twenty-three, to wit, on the eighteenth Day of *November*, in the seventh Year of the Reign of our Sovereign Lord *George* the

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Second, now King of Great Britain, with Force and Arms, at the Parish aforesaid, in the County aforesaid, knowingly, unlawfully, wickedly, and feloniously did send a certain Letter in Writing, bearing Date the said eighteenth Day of November, without any Name subscribed and signed thereto, directed to one *Obadiab Marrvat*, by the Name of *Mr. Marrvat*, demanding Money, to wit, three Pieces of Gold Coin, of the proper Coin of this Realm, called Guineas, to the great Damage of the said *Obadiab Marrvat*, against the Form of the Statute in that Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. * 9 Geo. 1. c. 22. 'tis enacted (inter alia) That if any Person, from and after the first Day of June, 1723. shall knowingly send any Letter without any Name subscribed thereto, or sign'd with a fictitious Name, demanding Money, Venison, or other valuable Thing, He shall be adjudged guilty of Felony, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

This Law continued, as before.

* This Act was occasion'd by the Injuries then lately before committed by several Persons near Waltham, who appeared black'd and disguised in Chaces, Forests, &c. and is from thence called the Waltham Black Act.

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*For Felony ; in procuring a Person,
by Promise of Money, to join in set-
ting Fire to a Stack of Hay.*

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. B.* late of the Parish of *St. Clement Danes*, in the County of *Middlesex*, Labourer, being an evil-disposed Person, not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the first Day of *June*, One thousand seven hundred and twenty-three, to wit, on the eighth Day of *November*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish of *St. John* at *Hackney*, in the County aforesaid, did feloniously, and maliciously procure *C. D.* by Promise of Money, to wit, of the Sum of twenty Shillings, to join him the said *A. B.* unlawfully, feloniously, and maliciously, in setting Fire to a certain Stack of Hay, belonging to *E. F.* in the Farm-Yard of him the said *E. F.* situate, lying, and being in the said Parish of *St. John* at *Hackney*, in the County aforesaid, against the Form of the Statute in such Case made and provided, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, to the great Damage of the said *E. F.* and against the Peace of our said Lord the King, his Crown and Dignity.

*By the Stat. 9 Geo. 1. c. 22. If any Person
or Persons shall, by Gift or Promise of Money,
Hh 4 or*

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or on reward procure any of his Majesty's Subjects, to join him or them in any such unlawful Act (as in the Statute before is described) He or They, shall be adjudged guilty of Felony, and suffer Death as in Cases of Felony, without Benefit of Clergy. This Law continued as above mentioned.

Speedy Way of bringing Offenders to Justice, by the same Stat. 9 Geo. 1. c. 22.

AND for the more easy and speedy bringing the Offenders against this Act to Justice, 'tis enacted, That if any Person or Persons shall be charged with being guilty of any of the Offences (in the Act mentioned) before any Two or more of his Majesty's Justices of the Peace of the County where such Offence or Offences were or shall be committed, by Information of One or more credible Person or Persons upon Oath, by him or them to be subscribed, such Justices, before whom such Information shall be made as aforesaid, shall forthwith certify, under their Hands and Seals, and return such Information to one of the principal Secretaries of State of his Majesty, his Heirs, or Successors, who is hereby required to lay the same, as soon as conveniently may be, before his Majesty, his Heirs or Successors, or their Privy Council, whereupon it shall and may be lawful for his Majesty, his Heirs, or Successors, to make his or their Order in his or their Privy Council, thereby requiring and commanding such Offender or Offenders to surrender him or themselves, with-

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in the Space of Forty Days, to any of his Majesty's Justices of the Court of King's-Bench, or to any One of his Majesty's Justices of the Peace, to the End that he or they may be forth coming, to answer the Offence or Offences wherewith he or they shall so stand charged, according to the due Course of Law; which Order shall be printed and publish'd in the next London Gazette, and shall be forthwith transmitted to the Sheriff of the County where the Offence shall be committed, and shall within six Days after the Receipt thereof, be proclaimed by him or his Officers, between the Hours of Ten in the Morning, and Two in the Afternoon, in the Market-Places, upon the respective Market-Days of two Market-Towns in the same County, near the Place where such Offence shall have been committed; and a true Copy of such Order shall be affixed upon some public Place in such Market-Towns; and in Case such Offender or Offenders shall not surrender him or themselves, pursuant to such Order of his Majesty, his Heirs, or Successors, to be made in Council, as aforesaid, he or they, so neglecting or refusing to surrender him or themselves, as aforesaid, shall, from the Day appointed for his or their Surrender, as aforesaid, be adjudged, deemed, and taken to be convicted and attainted of Felony, and shall suffer Pains of Death, as in Case of a Person convicted and attained by Verdict and Judgment of Felony, without Benefit of Clergy; and that it shall be lawful to and for the Court of King's-Bench, or the Justices of Oyer and Terminer, or general Gaol-Delivery for the County, where the Offence is sworn in such Information to have been committed, upon producing

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producing to them such Order in Council, under the Seal of the said Council, to award Execution against such Offender and Offenders, in such Manner, as if he had been convicted and attainted in the said Court of King's Bench, or before such Justices of Oyer and Terminer, or general Gaol Delivery respectively.

Every Person, who, after the Time appointed for the Surrender of any Person so charged, shall conceal, abet, or suffer him, knowing him to be so charged, and required to surrender, being convicted thereof, shall suffer Death as a Felon, without Benefit of Clergy.

If any Person shall apprehend, or cause to be committed, any of the above Offenders, and shall be killed, or wounded, so as to lose an Eye, or the Use of any Limb, in apprehending such Offender, on Proof thereof at the Quarter Sessions for the County, &c. where the Offence was committed; the Justices shall give a Certificate thereof to the Party so wounded, or the Executors, &c. of the Party killed, which shall intitle them to receive of the Sheriff of the County 50*l.* to be allowed to the Sheriff in passing his Accounts, which 50*l.* the Sheriff is to pay within thirty Days, from the Day in which the Certificate shall be shewn him, on forfeiture of which, to the Person to whom the Certificate is given, for which, as well as for the fifty Pounds, such Person may bring his Action upon the Case against the Sheriff, as for Money had and received to his Use.

Prosecutions to be commenced within three Years, from the Time of the Offence committed, and not after.

No attainder for any Offences, made Felony by Virtue of this Act, shall work any Corruption of Blood, Loss of Dower, or Forfeiture of Lands or Tenements, Goods or Chattels.

therefore

Therefore Clerks of Arraigns should not give that in Charge, for Jurors to inquire what Lands or Tenements, Goods or Chattels, a Prisoner had at the Time such Felonies were committed.

An Indictment for Buggery.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That *J. K.* late of in the County of *Middlesex*, Labourer, not having the Fear of God before his Eyes, nor regarding the Order of Nature, but being moved and seduced by the Instigation of the Devil, on the Day of in the Year of the Reign, *Et c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *T. L.* a Youth about the Age of seventeen Years, then and there being, feloniously did make an Assault, and then and there feloniously, wickedly, diabolically, and against the Order of Nature, had a veneral Affair with the said *T. L.* and then and there, carnally knew the said *T. L.* and then and there, feloniously, wickedly, diabolically, and against the Order of Nature, did commit and perpetrate that detestable and abominable Crime of Buggery (not to be named among *Christians*) to the great Displeasure of Almighty God, to the great Scandal of all human Kind, against the Form of the Statute in such Case made and provided, and against the Peace, *Et c.*

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*An Indictment for Sodomy in Anno
of a Girl.*

Kent to wit. **T**HE Jurors for our Lord the King, upon their Oath present, That *Richard Wiseman*, late of the Parish of *Maidstone*, in the County of *Kent*, Labourer, not having God before his Eyes, nor regarding the Order of Nature, but moved and seduced by diabolical Instigation on the first Day of *January*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, and at the Parish aforesaid, in the County aforesaid, in a certain Room in the Workhouse then situate in the Parish aforesaid, in and upon one *Jane Mills*, Spinster, then a Virgin, of the Age of Eleven Years, in the Peace of God and our said Lord the King, then and there being, did violently and feloniously make an Assault, and then and there the said *Jane Mills*, in the Room aforesaid, did wickedly, diabolically, feloniously, and against the Order of Nature, carnally know, and a veneral Affair, in the Fundament of the said *Jane Mills* then and there had, and her the said *Jane Mills* then and there wickedly, diabolically, feloniously, and against the Order of Nature in the said Fundament of her the said *Jane Mills* then and there, did carnally know, and that sodomitical, detestable, and abominable Sin called Buggery, (not to be named among *Christians*) then and there with the said *Jane Mills*, wickedly, diabolically, feloniously, and against the Order of Nature, committed and perpetrated; to the great Displeasure of Almighty God, and Disgrace of all Human Kind, against the Peace of
our

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our said Lord the King, his Crown and Dignity, &c. and also against the Form of the Statute in such Case made and provided.

See the Case at large Fortescue's Rep. 91. also see Co. Ent. 351. 352. Swinb. of Wills 2. § 18.

Sodomy or Buggery, is the carnal Knowledge of the Body of a Man or Beast, against the Order of Nature; it may be committed by Man with Man (which is the most common) or by a Man with a Woman, or by Man or Woman with a Beast. It was Felony by the ancient common Law, and punished, according to some Authors, with burning; according to others, with burying alive; but at this Day by Force of the Statute 25 H. 8. c. 6. & 5. Eliz. c. 17. it is punished in the same Manner as other Felonies, which are excluded Clergy. Not only he who doth the Act, is a Principal, but he who is present, aiding and abetting him. It is Felony in the Agent and Patient consenting; unless the Person, on whom committed, be within the Age of Discretion, then 'tis Felony in the Agent only. 3 Inst. 58. H. P. C. 177. Dalt. 382. Hawk. 6.

In the Indictment there must be the Words *Rem habuit re eream et carnaliter cognovit*; and consequently some Kind of Penetration and Emission is to be proved; but any the least Degree is sufficient, an Emission is prima facie Evidence of Penetration 12 Co. 36. 37. 1 Hale's. H. P. C. 628. and Lord Audley's Case in the State Trials.

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An Indictment for Burglary.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That A. L. late of the Parish of St. Dunstan in the

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the West, in the County of *Middlesex*, Labourer, on the fourteenth Day of *October*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. about the Hour of ten in the Night of the same Day †, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling-House of *J. L.* there situate, feloniously and burglariously did break and enter, and one Silver Tankard, of the Value of five Pounds, of the Goods and Chattels of the said *J. L.* in the same Dwelling-House then and there, feloniously and burglariously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

N. B. *All Burglaries are Felonies without Benefit of Clergy*, Stat. 18. El. c. 7. *Captor's Reward on Conviction* (beside that given by 10 W. 2. cap. 2. 3.) *forty Pounds*, by 5 Ann. cap. 6. *Vide Certificate to intitle Apprehenders of a House-breaker to forty Pounds for Apprehension*, &c. Antea fo.

A Burglar is he, who in the Night-time breaketh and entreteth into a Mansion-House of another, with Intent to kill some reasonable Creature, or to commit some other Felony within the same, whether his felonious Intent be executed or not. Coke, P. C. cap. 14. p. 63. *And accordingly the Indictment runs as above, or if no Theft were actually committed, then say, with an Intent, the Goods and Chattels of the said J. L. in the said Dwelling-House then and there being, then and there, feloniously and burglariously to steal, take, and carry away; or with an Intent, him the said J. L. then and there being, feloniously to kill and murder, against the Peace, &c.*

1. *What is said to be Night.*

After

† *Note*, You must always call it the Night of the next Preceding Day, tho' it be after 12 o'Clock.

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After Sun-set and before Sun-rising it is Night.
Dalt. c. 99. but it seems to be Day
as long as the Countenance of a Per- 1: Hawk. P. C.
son may be discovered. 101, 102.

2. What a Breaking or Entering.

There must be both Breaking and Entering; and according to 1. Hale's. H. P. C. 551. both must be in the Night-time.

Entering a House, the door being open, is not sufficient, for there must be an actual breaking; therefore if the Door or Window be open, and the Thief draw out the Goods, it is no Burglary: but if the Thief break the Window, draw a Latch, unlock a Door, or break a Whole in the Wall, these are Breakings.

As there must be a Breaking so there must be an Entering; setting a Foot over the threshold; putting the Hand, a Hook, or Pistol within a Window or Door; turning the Key where the Door is lock'd on the Inside, is an Entry.

In some Cases Burglary may be committed without an actual Breaking, viz.

Divers come to commit a Burglary, one does it, the Rest watch at the End of a Street or Lane, it is Burglary in all; going down a Chimney to rob, is Burglary. But see. 1. H. H. P. C. 552.

A Thief gets into a House in the Day-time; the Doors being open, and lies there 'till Night, then steals and goes away, it is no Burglary; but if he breaks open a Door to go out, it is Burglary.

The Servant opens a Window to let in a Thief, who comes in and steals; it is Burglary in the Stranger, but only Larceny in the Servant.

If a Thief enter into a House thro' a Hole made there before, it is no Burglary.

Burglary may be committed in a Mansion House, tho' all Persons be out. And so it is, If a Man bath

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two Houses, and sometimes lies in the one, and sometimes in the other.

A Chamber where a Person usually lodges, in an Inn of Court is a Mansion-House.

Breaking a Church is Burglary. 1. Hawk. P. C. 103.

If a Man be indicted for Burglary, for that he feloniously and burglariously did take the Goods, &c. out of a Dwelling-House, he may be acquitted of the Burglary, and found guilty of simple Felony, if the Proof be not sufficient as to the Burglary. See more of Burglaries in Co. P. C. Hale, P. C. Hale H. P. C. & Dalt Just.

An Indictment for breaking a House in the Day-time (no person being therein) and stealing Goods of above the value of five Skillings.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. K.* late of, &c. on the Day of in the Year of the reign, &c. about the Hour of eleven in the Forenoon of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling-House of *J. E.* there situate, feloniously did break and enter, (no Person in the same Dwelling-House then and there being) and two Pewter Dishes of the value of seven Shillings (*here mention all the Goods and Money stolen*) of the Goods and Chattles of the said *J. E.* in the same Dwelling-House then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

This

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By Stat. 39. Eliz. c. 15. *this Offence is Felony without Benefit of Clergy, And the same Reward to Captors as in Burglary, by Stat. 10 W. 3. c. 23. 5 Ann. c. 31.*

F O R G E R Y.

An Indictment for forging a Bond and publishing the same..

Nottingham. **T**HE Jurors for our Lord the King, upon their Oath present, That *Benjamin Wallis*, late of *Nottingham*, in the County of *Nottingham*, Labourer, and *William Mitchell*, late of the same, Labourer, after the twenty-ninth Day of *June*, in the Year of our Lord, One thousand seven hundred and twenty-nine, to wit, on the eighth Day of *November*, in the seventh Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. with Force and Arms, at *Nottingham* aforesaid, in the County aforesaid, feloniously did falsly make, forge, and counterfeit, and did cause and procure to be falsly made, forged, and counterfeited, a certain Bond, purporting to be signed by one *John Langley* (then deceased) in his Life-time, with the Mark of him the said *John Langley*, and to be sealed and delivered by the said *John Langley*, in his Life-time, the Tenor of which said Bond is as followeth; (*recite the Bond literatim*). "*The Mark of John + Langley, sealed and delivered upon treble Six-penny stamp'd Paper, in the Presence of the Mark of Benjamin + Wallis,*" *William Mitchell*, with an Intent to defraud *William Bri-*

I i ket

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ket and *Thomas Wood*, Executors, of the last Will and Testament of the said *John Langley*, of the Sum of two hundred and fifty Pounds, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the aforesaid *Benjamin Wallis* and *William Mitchell*, afterwards, to wit, on the said eighth Day of *November*, in the said seventh Year of the Reign of our said Lord the King, at *Nottingham* aforesaid, in the County aforesaid, a certain false, forged, and counterfeit Bond, purporting to have been signed by the said *John Langley* (then deceased) in his Life-time, with his Mark, and to have been sealed and delivered by the said *John*, in his Life-time, with Force and Arms, feloniously did utter and publish, as a true Bond, which said Bond, so as aforesaid, falsely made and counterfeited, is in the Words and Figures following; (*recite the Bond again throughout literatim*) with an Intent to defraud the said *William Briket* and *Thomas Wood*, Executors of the last Will and Testament of the said *John Langley*, of the said Sum of two hundred and fifty Pounds (the said *Benjamin Wallis* and *William Mitchell*, at the Time of publishing of the said false, forged, and counterfeit Bond, by them as aforesaid, then and there well knowing, and each of them well knowing the said Bond to have been false, forged, and counterfeited) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 2. Geo. 2. c. 25. (*made perpetual by the Stat. 9. Geo. 2. c. 18.*) it is enacted,

ed, That if any Person, from and after the twenty-ninth Day of June, in the Year of our Lord, One thousand seven hundred and twenty-nine, shall falsely make, forge, or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited, or willingly act or assist in the false making, forging, or counterfeiting any Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissary Note for Payment of any Money, Indorsement or Assignmenet of any Bill of Exchange, or Promissary Note for Payment of any Money, or any Acquittance or Receipt, either for Money or Goods, with Intention to defraud any Person whatsoever, or shall utter or publish, as true, any false, forged, or counterfeit Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissary Note for Payment of Money, Acquittance or Receipt, either for Money or Goods, with Intention to defraud any Person, knowing the same to be false, forged, or counterfeited, then every such Person being thereof lawfully convicted, according to the due Course of Law, shall be deemed guilty of Felony, and suffer Death as a Felon without Benefit of Clergy.

Nothing in this Act extends to Scotland.

Nor no Attainder for any Offence therein made Felony, shall make or work any Corruption of Blood, Loss of Dower, or Disinheritance of Heirs.

An Indictment for forging and publishing an Acceptance on a Bill of Exchange.

London. **T**HE Jurors for our Lord the King upon their Oath present, That Mordecai Silver, late of London, Labourer,

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on the fifteenth Day of *September*, in the eighth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. at the Parish of *St. Sepulchre*, in the Ward of *Farringdon Without*, in *London* aforesaid, had in his Custody a certain Bill of Exchange, purporting to be signed in the Name of *John Jobson*, and to bear Date at *Stockholm*, in Parts beyond the Seas, the thirtieth Day of *August*, in the Year of our Lord, One thousand seven hundred and thirty-five, directed to *Peter Thompson*, Merchant, in *London*, for the Payment of four hundred and fifty Pounds Sterling, to *John Goodman*, or Order, two Months after Sight of the same Bill; and that the said *Mordecai Silver*, contriving and intending the Governor and Company of the Bank of *England*, and also the said *Peter Thompson* of *London*, Merchant, feloniously to deceive and defraud, after the twenty-fourth Day of *June*, One thousand seven hundred and thirty-four, to wit, on the fourteenth Day of *October*, in the said eighth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the Ward aforesaid, in *London* aforesaid, wickedly, unlawfully, and feloniously did falsly make, forge, and counterfeit, and did cause to be falsly made, forged, and counterfeited on the same Bi'l of Exchange, an Acceptance in Writing of him the said *Peter Thompson*, in the Words and Figures following (to wit) 'Accepted 14 October, '1735, payable at Messieurs Knight and Jackson, 'Peter Thompson,' to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon

pon their Oath aforesaid, do further present, That he said *Mordecai Silver*, contriving and intending the Governor and Company of the Bank of *England*, and also the said *Peter Thompson* of *London*, Merchant, feloniously to deceive and defraud, on the said fourteenth Day of *October*, in the said eighth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the Ward aforesaid, in *London* aforesaid, the said Writing falsly made and counterfeited, purporting to be the Acceptance of a certain Bill of Exchange, and purporting to be signed in the Name of *John Jobson*, and to bear Date at *Stockholm* aforesaid, the said thirtieth Day of *August*, in the Year One thousand seven hundred and thirty five aforesaid, and to be directed to *Peter Thompson*, Merchant, in *London*, for the Payment of four hundred and fifty Pounds Sterling, to *John Goodman*, or Order, two Months after Sight of the said Bill, wickedly, unlawfully, fraudulently, and feloniously did publish, and cause to be published, for, and as a true Writing and Acceptance of the said *Peter Thompson*, which said false, forged and counterfeit Writing, is in the Words and Figures following (to wit) ‘ *Accepted* ‘ 14 *October*, 1735, payable at *Messieurs Knight* ‘ and *Jackson*, *Peter Thompson*,’ (he the said *Mordecai Silver*, at the Time of publishing the said false and counterfeit Writing there by him, in Form aforesaid, well knowing the said Writing to have been falsly forged, and counterfeited as aforesaid) to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

*An Indictment of Felony for altering
a Warrant, or Order for Payment,
of a South Sea Annuity.*

London. **T**HE Jurors for our Lord the King, upon their Oath present, That one *Daniel Hayne*, on the twenty-first Day of *January*, in the Year of our Lord One thousand seven hundred and forty-four, and in the eighteenth Year of the Reign of our Sovereign Lord *George the Second*, by the Grace of God of *Great Britain, France and Ireland* King. Defender of the Faith, &c. and long before was, and still is, one of the Clerks of the Governor and Company of Merchants of *Great Britain* trading to the *South Seas* and other Parts of *America*, and for encouraging the Fishery; and then, and long before, was, and hath ever since been, entrusted and employed by the Governor and Company aforesaid, to make out and sign Warrants, or Orders, for the Payment of Money payable by the said Governor and Company, to wit, at *London*, that is to say, at the Parish of *St. Mary Outwich*, in the Ward of *Broad Street*, in *London* aforesaid: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That *Hugh Pelling*, late of *London*, Gent. on the eleventh Day of *February*, in the eighteenth Year aforesaid, and long before and afterwards, was a Clerk of the Governor and Company aforesaid, commonly called a Pay-Clerk, and entrusted and employed by the said Governor and Company to pay Money for them, and on their Behalf, upon and in Discharge of Warrants, or Orders for the Payment of Money payable by the said Governor and Company, to wit, at *London* aforesaid, that is to say, in the Parish and Ward aforesaid:

And

And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Hugh Pelling*, on the said eleventh Day of *February*, in the eighteenth Year aforesaid, having in his Custody and Possession a certain Warrant or Order, partly printed and partly written, signed by and under the Hand of the said *Daniel Hayne*, and directed to *Rowland Rogers*, Esq; then and upon the said twenty-first Day of *January*, in the said Year of our Lord One thousand seven hundred and forty-four, and long before Cashier to the Governor and Company aforesaid, for the Payment of the Sum of Eight Pounds to one *William Derisly* therein named, for half a Year's Annuity on the Sum of Four hundred Pounds Interest or Share in the new joint Stock of *South Sea* Annuities therein mentioned, and which said Warrant or Order was then in the Words, Figures, Cyphers and Letters following, that is to say, C No. 1214, *New South Sea Annuities at 4 l. per Cent. 23d.* Rowland Rogers, Esq; pay to William Derisly (the Warrant set forth at Large) and, on the Back of which said Warrant or Order, the said *William Derisly* had signed his Name as followeth, *Wm. Derisly*. He the said *Hugh Pelling* afterwards, that is to say, on the said eleventh Day of *February*, in the eighteenth Year aforesaid, with Force and Arms, at *London* aforesaid, that is to say, at the Parish of *St. Mary Outwich*, in the Ward of *Broad Street*, in *London* aforesaid; the said Warrant or Order feloniously did alter, and cause to be altered, by falsely making, forging and adding the Letter *Y* to the Word *Eight* before written in the said Warrant or Order; whereby the Words *Eight Pounds* before written in the said Warrant or Order, with the said Letter *Y* so falsely made and forged, and added as aforesaid, became eighty Pounds; and also, by falsely making, for-

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ging and adding the Cypher 0 to the Figure and Cyphers 400. before also written in the said Warrant or Order, which Figure and Cyphers, with the Letter *L* next preceeding them, did before such last mentioned Forgery and Addition import and signify Four hundred Pounds; but, by Reason and Means of such last mentioned Forgery and Addition, did, together with the said Cypher so falsely made, forged and added as aforesaid, become, import and signify, Four thousand Pounds: And also, by falsely making, forging and adding the Cypher 0 to the Figure 8 before written, also in the said Warrant or Order, and which said last mentioned Figure, with the Letter *L* next preceeding it, did, before such last mentioned Forgery and Addition, import and signify Eight Pounds; but, by Reason and Means of such last mentioned Forgery and Addition, did, together with the said last mentioned Cypher, so falsely made, forged and added, become, import and signify Eighty Pounds, with Intention to defraud the * Governor and Company aforesaid, of the Sum of Seventy-two Pounds of law'ul Money of *Great Britain*, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statutes in such Case made and provided. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Hugh Telling*, on the said eleventh Day of *February*, in the eigh-

* It was objected for the Prisoner, That an Intention to defraud a Body Corporate was not within the *Stat. 7. Geo. 2. c. 22.* which makes it Felony to forge, &c. with Intent to defraud *any Person*; that the *South Sea Company* cannot fall under the Description of the general Word *Person* mentioned in this Act. This Point was reserved to the Prisoner, in case he should be found Guilty; but, he being acquitted, the Point was not determined.

teenth Year of his said present Majesty's Reign, having in his Custody and Possession a certain false, forged, altered and counterfeited Order, Warrant or Order, partly written and partly printed, purporting to be a Warrant or Order under the Hand of the said *Daniel Hayne*, and directed to the said *Rowland Rogers*, Esq; for the Payment of the Sum of Eighty Pounds to one *William Derisly* therein named, for half a Year's Annuity on the Sum of Four thousand Pounds Interest or Share in the New join'd Stock of *South Sea Annuities* therein mentioned, which said false, forged, altered and counterfeited Warrant or Order is in the Words, Figures, and Cyphers following, that is to say, C No. 1214. (the whole Warrant set forth at Length); and, on the Backside of which said false, forged, altered and counterfeited Warrant or Order, is signed the Name *Wm. Derisly*, as a Discharge under the Hand of the said *William Derisly* in the said false, forged, altered and counterfeited Warrant, named of the said false, forged altered and counterfeit Warrant or Order; he, the said *Hugh Pelling*, afterwards, to wit, upon the said eleventh Day of *February*, in the eighteenth Year aforesaid, with Force and Arms, at *London* aforesaid, that is to say, at the Parish of *St. Mary Outwich*, in the said Ward of *Broad Street*, in *London* aforesaid, with Intention to defraud the Governor and Company of Merchants of *Great Britain*, trading to the *South Seas* and other Parts of *America*, and for encouraging the Fishery, of another Sum of seventy-two Pounds, the said false, forged, altered and counterfeited Warrant or Order, did feloniously utter and publish as a true Warrant or Order, under the Hand of the said *Daniel Hayne*, for Payment of the Sum of Eighty pounds to the said *William Derisly*; he, the said *William Pelling*, at the
Time

Time he so as aforesaid uttered and published the said false, forged, altered and counterfeited Warrant or Order, well knowing the same to be false, forged, altered and counterfeited, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case made and provided (a third Count for Feloniously uttering and publishing the said forged Warrant or Order, with Intention to defraud divers Persons unknown.) And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Hugh Pelling*, on the said eleventh Day of *February*, in the eighteenth Year of the Reign of our said Lord the present King, at *London* aforesaid, in the Parish and Ward aforesaid, having in his Custody a certain Paper, partly printed and partly written, and which was then in the Words, Figures and Cyphers following, that is to say, C. No. 12141, &c. and on the Back of which said Paper, partly printed and partly written, the aforesaid *William Derisly* therein named, has indorsed and signed his Name as followeth, *Wm. Derisly*; and which said Paper, partly printed and partly written, together with the said Indorsement, in the Form aforesaid, did then purport to be, and was, a † Receipt, Acquittance and Discharge, under the Hand of the said *William Derisly*, for the said Sum of 8 *l.* in the said Paper partly printed and partly written mentioned; he the said *Hugh Pelling* afterwards, that is to say, on the said eleventh Day of *February* in the eighteenth Year aforesaid, with Force and

† The Warrant having been passed and cancelled, as a true one, it was thought adviseable to consider it as a Receipt or Acquittance, which occasioned this and the two subsequent Counts.

Arms, at the Parish and Ward aforefaid, in *London* aforefaid, the faid Paper partly printed and partly written, with the Indorfement thereon fo purporting to be fuch Receipt, Acquittance and Difcharge as aforefaid, feloniously did alter, and caufe to be altered, and the Letter *Y* feloniously and falſely did make, forge, counterfeit and add to the Word *Eight* before written in the faid Paper partly printed and partly written, fo purporting with the faid Indorfement to fuch Receipt, Acquittance and Difcharge as aforefaid; whereby the Words *Eight Pounds*, before written, in the faid Paper partly printed and partly written, fo purporting with the faid Indorfement, to be fuch Receipt, Acquittance and Difcharge as aforefaid, with the faid Letter *Y*. fo falſely made, forged, and added thereto, became eighty Pounds; and alſo the Cypher *o*, feloniously and falſely did make, forge, counterfeit and add to the Figure and Cyphers 400, before alſo written in the faid Paper partly printed and partly written, fo purporting with the Indorfement aforefaid to be fuch Receipt, Acquittance and Difcharge as aforefaid, whereby the faid Figure and Cyphers 400, with the printed Letter *L*. next preceeding them, did, together with the faid Cypher fo falſely made, forged and added thereto, as aforefaid, become, import and ſignify four thouſand Pounds; and alſo the Cypher *o*, feloniously and falſely did make, forge, counterfeit and add to the Figure 8, before written alſo in the faid Paper partly printed and partly written, fo purporting with the Indorfement aforefaid to be fuch Receipt, Acquittance and Difcharge as aforefaid, whereby the Figure 8, with the printed Letter *L* alſo next preceeding it, did, together with the faid laſt mentioned Cyphers fo falſely made, forged and added thereto as aforefaid

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said, become, import and signify, eighty Pounds, with Intention to defraud the Governor and Company of Merchants of *Great Britain*, trading to the *South Seas* and other Parts of *America*, and for encouraging the Fishery, against the Peace of our said Lord the King his Crown and Dignity, and also against the Form of the Statutes in such Case made and provided. A fifth Count for feloniously uttering and publishing such Receipt or Acquittance, knowing that the same had been altered, forged and counterfeited, by Persons unknown, with Intent to defraud the said Governor and Company, *mutatis mutandis* as the fourth Count; and a sixth Count *mutatis mutandis* as the fifth Count, with intent to defraud Persons unknown.

By the Stat. 7. Geo. 2. c. 22. It is enacted, That if any Person, from and after the twenty fourth Day of June, One thousand seven hundred and thirty-four, shall falsely make, alter, forge, or counterfeited, or cause or procure, to be falsely made, forged or counterfeited, or willingly act, or assist in the false making, altering, forging, or counterfeiting any Acceptance of any Bill of Exchange, or the Number, or principal Sum of any accountable Receipt for any Note, Bill, or other Security for Payment of Money, or any Warrant or Order for Payment of Money, or Delivery of Goods, with Intention to Defraud any Person whatsoever, or shall utter, or publish as true, any false, altered, forged, or counterfeited Acceptance of any Bill of Exchange, or accountable Receipt for any Note, Bill, or other Security for Payment of Money, or Warrant, or Order for Payment of Money, or Delivery of Goods, with Intention to defraud any Person, knowing the same to be false, altered, forged, or counterfeited; then every such Person
being

being thereof lawfully convicted according to the due Course of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

It is made Felony, without Benefit of Clergy, to forge Bank-notes, Exchequer Bills or Orders, by the several Statutes relating to these Securities.

An Indictment of Felony in counterfeiting, and forging a Stamp resembling the Stamp used by the King's Officers; for marking and stamping Hides and Skins, and Pieces of Hides and Skins, &c.

Pembrokeshire. **T**HE Jurors for our Lord the King, upon their Oath present, that in pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the twenty-fifth Day of September, in the sixteenth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. at the Parish of Narbeth, otherwise Narberth, in the County of Pembroke, was made, provided, and appointed for the making and stamping of Hides and Skins, and of Pieces of Hides and Skins, and of Vellum and Parchment tanned, tawed, dressed, or made within England, or Wales, or Town of Berwick upon Tweed, to denote the charging the Duties by the Statutes in such Case made and provided, payable to our said Lord the King, for, and in respect thereof, which said Stamp on the twenty-fifth Day of September, in the Year afore-
said

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said, at the Parish and County aforesaid, was used
 for the Purpose aforesaid, and that one *Thomas*
Christmas, late of the Parish aforesaid, in the
 County aforesaid, Labourer, afterward, and after
 the making of the Statute in that Case lately made
 and provided, to wit, on the said twenty-fifth
 Day of *September*, in the sixteenth Year aforesaid,
 at the Parish aforesaid, in the County aforesaid,
 with Force and Arms, &c. feloniously did Coun-
 terfeit and Forge a certain Stamp to resemble the
 said Stamp so as aforesaid, made provided and
 appointed, and then and there used in pursuance
 of, and according to the Form of the Statute in
 such Case made and provided, with Intent thereby
 to defraud our said Lord the King of the Duties
 aforesaid, in Contempt of our said Lord the
 King, and his Laws against the Peace of our said
 Lord the King, his Crown and Dignity, and con-
 trary to the Form of the Statute in such Case made
 and provided, And the Jurors aforesaid, do further
 present, That in pursuance of, and according to
 the Form of the Statute in such Case made and
 provided, a certain Stamp on the thirtieth Day
 of *July*, in the Year of our Lord, one thousand
 seven hundred and forty-two, at the Parish of
Narbeth, otherwise *Narberth* aforesaid, in the
 County of *Pembroke* aforesaid, was made, pro-
 vided, and appointed for the Marking and Stamp-
 ing of Hides, and Skins, and of Pieces of Hides
 and Skins, and of Vellum and Parchment, tanned,
 tawed, dressed, or made within *England*, or *Wales*,
 or Town of *Berwick* upon *Tweed*, to denote the
 charging the Duties by the Statutes in such Case
 made and provided, payable to our said Lord the
 King, for and in respect thereof, of which said last
 mentioned Stamp from the Day and Year last
 aforesaid, until the twentieth Day of *April*, in the
 Year

Year of our Lord, one thousand seven hundred and forty-four, at the Parish, and in the County aforesaid, was used for the Purposes last aforesaid, and that the aforesaid *Thomas Christmas*, after the making of the Statute in such Case lately made and provided, to wit, at divers Times, and in and upon divers Days within the Time last aforesaid, at the Parish of *Narbeth* otherwise *Narbertb*, aforesaid, in the County of *Pembroke* aforesaid, with Force and Arms, &c. feloniously in and upon several Hides, and in and upon several Skins, and in and upon several Pieces of Hides, and in and upon several Pieces of Skins respectively tanned within *Wales*, the Impression of the said last mentioned Stamp, did Counterfeit and resemble with Intent thereby to defraud our said Lord the King of the Duties last aforesaid, contrary to the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the said thirtieth Day of *July*, in the Year of our Lord, One thousand seven hundred and forty-two, and long before at the Parish of *Narbeth*, otherwise *Narbertb*, aforesaid, in the County of *Pembroke* aforesaid, was made, provided, and appointed, for the Marking and stamping of Hides and Skins, and Pieces of Hides and Skins, and of Vellum and Parchment tanned, tawed, dressed or made within *England*, or *Wales*, or Town of *Berwick* upon *Tweed*, to denote the charging the Duties by the Statutes in such Case made and provided, payable to our said Lord the King, for, and in respect thereof, which said last mentioned Stamp from the Day
and

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and Year aforesaid, until the twentieth Day of *April*, in the Year of our Lord One thousand seven hundred and forty-four, at the Parish and County aforesaid, was used for the purposes last aforesaid, and that the aforesaid *Thomas Christmas*, after the making of the Statute in such Case lately made and provided, to wit, at divers Times and in and upon divers Days within the Time last aforesaid, at the Parish of *Narbeth*, otherwise *Narberth* aforesaid, in the County of *Pembroke* aforesaid, with Force and Arms, &c. feloniously in and upon several Hides, and in and upon several Skins, and in and upon several Pieces of Hides, and in and upon several Pieces of Skins respectively tanned within *Wales*, the Impression of the said last mentioned Stamp, did Counterfeit and resemble, and that the said *Thomas Christmas* did thereby then and there defraud our said Lord the King, of the Duties last aforesaid, contrary to the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that in pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the said thirtieth Day of *July*, in the Year of our Lord, One thousand seven hundred and forty-two, and long before at the Parish of *Narbeth*, otherwise *Narberth* aforesaid, in the County of *Pembroke* aforesaid, was made provided, and appointed for the Marking and Stamping of Hides, and Skins and of Pieces of Hides, and Skins and of Vellum and Parchment, tanned, tawed, dressed, or made within *England*, *Wales*, or Town of *Berwick upon Tweed*, to denote the charging the Duties by the Statutes in such Case made and provided, payable
to

to our said Lord the King, for and in respect thereof, which said last mentioned Stamp, from the Day and Year last aforesaid, until the twentieth Day of *April*, in the Year of our Lord, One thousand seven hundred and forty-four, at the Parish and County aforesaid, was used for the Purposes last aforesaid, and that the aforesaid *Thomas Christmas*, after the making of the Statute in such Case lately made and provided, to wit, at divers Times, and in and upon divers days, within the Time last aforesaid, at the Parish aforesaid, in the County aforesaid, several Hides and Skins, and several Pieces of Hides and several Pieces of Skins respectively tanned within *Wales* and marked and stamped with a Counterfeit, and forged Impression thereon, resembling the Impression of the said last mentioned Stamp, so as is last aforesaid, made, provided and appointed, and then and there used in pursuance of, and according to the Form of the Statute in such Case made and provided, to certain Persons to the Jurors aforesaid, as yet unknown, with Force and Arms, &c. feloniously did utter and sell (the same *Thomas Christmas* then and there well knowing the said Mark or Impression, so as aforesaid marked and stamped in and upon the said several Hides and Skins, and Pieces of Hides and Skins so as aforesaid, uttered and sold to be forged and counterfeited) in Contempt of our said Lord the King and his Laws, against the Peace of our said Lord the King his Crown and Dignity, and contrary to the Form of the Statute in such Case made and provided.

By Stat. 9 Ann. c. 11. *The Commissioners of the Customs shall provide Marks of the same kind with which the Hides, &c. shall be marked, and*
 K k *shall*

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shall cause the said Marks to be distributed amongst the Officers of the Customs with which all the Hides, &c. tanned, &c. in Great Britain, upon the charging of the Duties shall be marked, and if any Person shall forge any Mark made in pursuance of this Act, or shall counterfeit the Impression of the same upon any Hide, &c. to defraud his Majesty, or shall utter or sell any Hide, &c. with such counterfeit Mark, knowing such Mark to be counterfeited, being thereof convicted shall suffer Death as in Cases of Felony without benefit of Clergy.

HORSE STEALING.

An Indictment for stealing a Gelding.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. E.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, on the twelfth Day of *August*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Gelding of a bay Colour, of the Price of six Pounds, of the Goods and Chattels of one *James Duffnel*, then and there found, feloniously did steal, take, and * lead away, against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 2. & 3. E. 6. c. 33. All Persons feloniously taking or stealing any Horse, Gelding, or Mare, shall not be admitted to the Privilege of the

* For stealing a Horse, &c. (instead of carry away) lead away; for Oxen, Cows, Sheep, &c. drive away.

Clergy.

Clergy, but shall be put from the same in like Manner and Form, as tho' they had been indicted for feloniously stealing of two Horses, two Geldings, or two Mares, and thereupon found Guilty by Verdict, or confession, &c.

Note, A Person who shall apprehend and prosecute to Conviction, any Horse-stealer, shall have a Certificate signed by the Judge, to exempt him from Serving all Parish and Ward Offices. Vide Stat. 10. and 11. W. 3. c. 23.

Note, The Certificate may be once assigned, and not more.

H O U S E.

An Indictment for stealing above the value of Forty Shillings in a Dwelling-House.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That A. B. late of the Precinct of St. Catherine, in the County of Middlesex, Labourer, on the sixth Day of July, in the eleventh Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. with Force and Arms, at the Precinct aforesaid, in the County aforesaid, one Silver Pint Pot, of the Value of Forty Shillings; six Diaper Napkins, of the value of Seven Shillings; and nine Pewter Dishes of the Value of Twenty Shillings, of the Goods and Chattels of one Isaac Partridge, in the Dwelling-House of him the said Isaac Partridge, then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

K k 2

By

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By the Stat. 12 Ann. Stat. 1. c. 7. 'Tis enacted, That every Person, who shall feloniously steal any Money, Goods, &c. of the Value of forty Shillings, or more, being in a Dwelling-House, or Out-House thereunto belonging, although such House or Out-House be not actually broken by such Offenders; and although the owner of such Goods or any other Person or Persons, be not in such House or Out-House, or shall assist, or aid any Person to commit such Offence, being convicted or attainted by Verdict, or Confession, &c. shall be absolutely debar'd of Clergy, &c.

Provided, That nothing in this Act shall extend to Apprentices under the Age of fifteen Years, who shall rob their Masters.

N. B. No Reward on Conviction in this Case by the abovementioned Statute, or any other.

And if the Jury find under forty Shillings, the Party hath his Clergy.

LARCENY, Grand and Petty.

An Indictment for Grand Larceny.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late *&c.* on the *Day* of *in the tenth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one silver Spoon, of the Value of ten Shillings, of the Goods and Chattels of one J. L. two brass Candlesticks, of the Value of two Shillings, and two Linen Shirts, of the Value of six Shillings, of the Goods and Chattels of one E. W. then and there being found, feloniously*

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feloniously did steal, * take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Larceny, Latrocinium, is a wrongfully taking away another Man's Goods, with a Mind to steal, derived of the French, Larcen, i. e. Furtum. Larceny defined.

This is called a Grand Larceny, being above the Value of twelve Pence, charged to be stolen, of the Goods of another, not from the Person, nor out of his House.

Petty Larceny is under the Value of twelve Pence, and the Form of the Indictment is exactly the same, only in Respect to Value.

To shew what is Felony, and what not.

If a Person finds Goods lost, and converts them, though it was Animo furandi, yet it is no Felony.

If a Man hath a bare Charge of Goods, Felony may be by him committed, as a Servant that hath a Charge of Plate.

The like of him who hath a special Use, as a Guest at a Tavern, that hath Plate set before him.

He who hath Possession by Delivery, cannot commit Felony.

If a Carrier hath Goods delivered to him, and carries them away, it is no Felony.

But if the Privy be determined, then it may be Felony; as if A delivers a Pack to a Carrier who opens it, and takes Goods, it is Felony.

Felony, by the Stat. 21 H. 8. c. 7. If a Servant goes away with Goods of his Master or Mistress, delivered to him, to or above the Value of forty Shillings, it is Felony; but this Extends not to a Servant or Apprentice, within eighteen Years of Age. Must be a Delivery.

* The Word (take) must be in; for to say, did steal and carry away, is not sufficient.

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If one Servant delivers Goods to another, it is a Delivery by Master.

If the Master deliver an Obligation, or deliver Cattle to sell, and the Servant receives Money, and departs it is no Felony; nor if he should go away with the Obligation.

Moving any Thing from one Place to another, though it be in the same House or Room, with a felonious Intent, is a carrying away within the Meaning of the Law.

So if a Person takes a Horse, with Intent to steal him, but is apprehended before he gets out of the Pasture, this is a felonious taking away.

If a Wife commits Theft by Coercion of her Husband, it is not Felony in her.

No Larceny can be committed of Corn, Grass, Apples, &c. growing; but offenders are indictable for Misdemeanor; nor of Mastiff Dogs, Bears, Foxes, Monkeys Ferrets, or their Whelps, no Felony can be committed; but Felony may be committed of Hawks reclaimed.

It is no Felony to take Things wild in their Nature, as Conies, Hares, Cranes, Partridges, Pheasants; but if reduced to Tameness he that then takes them, knowing them to be tame, committeth Felony.

To take Swans mark'd, or pinioned, or unmark'd, if tame, kept in a Mote, Pond, or private River, is Felony.

To take young Hawks or Pigeons in the Nest is Felony

Taking the Eggs of Hawks or Swans out of another Man's Ground, is not Felony.

Ground not Felony.

Taking

Taking any Thing tame in Nature, as Ducks, Hens, Geese, Turkeys, Peacocks or their Eggs, or domestic Beasts, as Horses, Mares, Colts, &c. or their Young, is Felony.

Felony to take tame Things.

To steal Goods, &c. in Middlesex, and carry them to Surry, Offender may be indicted in Surry, for 'tis Felony wherever stolen Goods are brought.

Felony in every County where stolen Goods are found.

If one Person at divers Times steals Goods or Money in several Parcels, as Fourpence at one Time, Eightpence, at another, and Sixpence at another, the whole amounting to above Twelvence, this is Grand Larceny; and it may be all put together in one Indictment, and lay the Day of (a Day subsequent to) the last taking.

Diverse Sums at different Times stolen, amounting to above 12 d. in the whole, Grand Larceny.

Petty Larceny is Felony, but not of Death, yet the Convict, forfeits Goods, &c. and is punishable by whipping.

Under 12 d. Petty Larceny.

In Grand Larceny the Jury may find to the Value of Tenpence which reduces the Fact to Petty Larceny, and convict as such only punishable.

How Jury may reduce Grand to Petty Larceny.

The Value of Things stolen must be expressed in the Indictment, to distinguish Grand Larceny from Petit, under forty Shillings out of a Dwelling-House is but Grand Larceny within Clergy (if the House is no broke) and if living Things, you must say instead (of the Value) of the Price, viz. one Ewe Sheep of the Price of twenty Shillings, of the Goods and Chattels of J. B.

How Things must be valued, and why.

To omit saying of the Goods and Chattels, is Fatal.

Omission Fatal.

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An Indictment, for that a Man feloniously took twenty Sheep, Weathers and Ewes, not good; because it doth not appear how many of one Sort, and how many of the other; but to say, did feloniously take twenty Sheep generally, will be good, without distinguishing as in Case of Replevin or Trespafs.

For want of Particularity, bad. generality without distinguishing good.

By the Stat. 4 Geo. 1. c. 11. 6 Geo. 1. c.

Felons returning from transportation before their Term expire, without Clergy.

Receivers of stolen Goods (knowingly) to be transported for 14 Years.

23. The Court may order any Person convicted of Larceny, or any Felonious stealing of Money, &c. within Clergy (except Persons convicted for receiving stolen Goods, knowing them to be stolen) instead of being burnt in the Hand, or Whipt, to be transported to any of his Majesty's Plantations in America, for the Space of seven Years; and Persons convicted for receiving stolen Goods

knowing them to be stolen, or for Offences without Clergy that pardoned generally upon Condition of Transportation, to be transported for the Term of fourteen Years; and if any shall rescue or aid such Offender to make his Escape, or he return before Expiration of his Term to Great Britain, or Ireland, shall be deemed Guilty of Felony without Clergy.

Larceny; from a Person privately out of Clergy.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That A. B. late of the Parish of St. John, Wapping, in the County of Middlesex, Labourer, on the

the fifteenth Day of *May*, in the ninth Year of the Reign of our Sovereign Lord *George* the second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Silver Watch, with a Silver Chain of the Value of four Pounds, of the Goods and Chattels of one *C. D.* from the Person of the said *C. D.* privately, secretly, and without the Knowledge of the said *C. D.* then and there feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

This is Larceny secretly from the Person, which is either picking the Pocket, or cutting the Purse.

Stat. 8. Eliz. c. 4. Offender oust of Clergy, if the Indictment pursue the Statute which is privily, without the Knowledge of the Party.

Note, That this Statute does not extend to any Accessories before or after.

But, if under the Value of Twelve-pence, then it remains Petty Larceny, as before; for the Statute did not alter the Offence, though it took away a Privilege. Crompt. P. C. c. 16.

Under 12 d. but Petty Larceny, tho' from the Person.

Therefore, if under Twelve-pence, the Indictment must not be secretly from the Person.

The Indictment need not conclude against the Form of the Statute, being always a Felony at Common Law.

N. B. There is no Reward given by any Statute upon Conviction in this Case.

If Offender, for secretly stealing from the Person, be attainted and pardoned, upon Condition of Transportation, and return, &c. before his Time into Great Britain, or Ireland, he is subject to the Statute of 4. Geo. 1. c. 11. and 6. Geo. 1. c. 23. ut supra.

L E A D.

L E A D.

An Indictment for Felony, in stealing Lead fixed to a Dwelling-house, and against the Aider, Assister, and Receiver.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Dunstan in the West*, in the County of *Middlesex*, Labourer, after the twenty-fourth Day of *June*, in the Year of our Lord One thousand seven hundred and thirty-one, to wit, on the twenty-sixth Day of *September*, in the ninth Year of the Reign of our Sovereign Lord *George* the second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, sixty Pounds Weight of Lead, of the Value of four Shillings, belonging to *C. D.* and then and there fixed to the Dwelling-House of the said *C. D.* feloniously did rip, steal, take, and carry away, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Against the Aider and Assister.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *C. W.* late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex* aforesaid, Labourer, on the said twenty-sixth Day of *September*, in the said ninth Year of the Reign of our said Lord the King.

King, with Force and Arms, at the Parish of *St. Dunstan in the West*, aforesaid, in the County aforesaid, feloniously was present, aiding, abetting, and assisting the said *A. B.* in stealing the said sixty Pounds Weight of Lead, so as aforesaid fixed to the said Dwelling-House, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Against the Receiver.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *E. F.* late of the Parish of *St. Andrew, Holbourn*, in the said County of *Middlesex*, afterward, to wit, on the said twenty-sixth Day of *September*, in the said ninth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish last aforesaid, in the County aforesaid, the said sixty Pounds Weight of Lead so as aforesaid, feloniously stolen, feloniously did receive (he the said *E. F.* then and there well knowing the said sixty Pounds Weight of Lead to have been feloniously stolen) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

The ripping, taking, and carrying away Lead, or any other Thing fixed to a Freehold, was formerly but a Misdemeanor, but now by the Stat. 4 Geo. 2. c. 32. To steal, rip, cut, or break, with Intent to steal any Lead or Iron Bar, Iron Grate, Iron Palisade, or Iron Rail fixed to any Dwelling-House, or other Building used with such Dwelling-House, or fixed in any Garden, Orchard, Court, Yard, or Fence,

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or Out-let belonging to any Dwelling-House, or other Building, is Felony. And so it is in the Aiders, Abettors, and Assisters, and such as shall buy or receive such Lead or Iron, knowing the same to be stolen.

Principals to be transported for seven Years. Accessories to have the like Punishment.

The Indictments must conclude against the Form of the Statute, being a Felony created by it.

'Tis a perpetual Law, and no time limited to prosecute.

Note, The Offenders may be indicted all together in one Indictment in the above Manner.

L I N E N.

An Indictment of Felony for stealing Linen from a Bleaching Crost.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of _____ in the County of *Surry*, Labourer, on the _____ Day of _____ in the nineteenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, &c.* with Force and Arms at the Parish aforesaid, in the County aforesaid, thirty Yards of Linen of the Value of thirty Shillings, of the proper Goods and Chattels of *C. D.* of the Parish aforesaid, in the County aforesaid, Whitster, then and there being laid, placed, and exposed to be whitened in a certain bleaching Crost, of the said *C. D.* situate, lying, and being in the Parish aforesaid, in the County aforesaid, feloniously did steal, take, and carry away against the

the Peace of our Lord the King, his Crown and Dignity.

By the Stat. 18 Geo. 2. c. 27. It is enacted, that every Person who shall by Day or Night, feloniously steal any Linen, Fustian, Callico, Cotton, Cloth, or Cloth-worked, Woven, or made of any Cotton or Linen Yarn, mixed, or any Thread, Linen, or Cotton Yarn, Linen or Cotton Tape, Inkle, Filleting, Laces, or any other Linen, Fustian or Cotton Goods, or Wares whatsoever, laid, placed or exposed to be printed, whitened, bowked, bleached or dried in any whitening or bleaching Croft, Lands, Fields or Grounds, Bowking-House, Drying-House, Printing-House or other Building, Ground or Place, made use of by any Calico-Printer, Whitster, Crofter, Bowker, or Bleacher, for Printing, Whitening, Bowking, Bleaching, or drying of the same, to the Value of ten Shillings, or who shall Aid or Assist, or shall wilfully or maliciously hire or procure any other Person or Persons to commit any such Offence, or who shall buy or receive such Goods or Wares so stolen, knowing the same to be stolen as aforesaid, being lawfully convicted thereof, shall be, and is hereby declared to be guilty of Felony, and shall suffer Death, as in Cases of Felony, without benefit of Clergy. But the Judge or Court may instead of giving Judgement of Death, order the Offender to be transported for fourteen Years, And if the Offender so ordered for Transportation, shall break Gaol or escape before Transportation, or shall return from Transportation, without lawful Cause before the Expiration of the fourteen Years, he shall suffer Death.

L O D G E R S.

*An Indictment for Stealing Goods let
by Contract, to be used with a
Lodging.*

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *Sarah Villers*, late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Widdow, on the ninth Day of *January*, in the fourth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. with force and Arms, at the Parish aforesaid, in the County aforesaid, one flaxen Sheet of the Value of six Shillings, and two brass Candlesticks of the Value of three Shillings, of the Goods and Chattels of one *Francis Smith*, (the same Goods and Chattels being in a certain Lodging Room, in the Dwelling-House of the said *Francis Smith*, there situate, let by Contract by the said *Francis Smith*, to the said *Sarah Villers*, and to be used by the said *Sarah Villers*, with the Lodging aforesaid) then and there being found, feloniously did steal, take, and carry away, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 3 & 4 W. & M. c. 9. If any Person shall steal any Chattels, &c. which by Contract or Agreement they are to use, or shall be let to them in Lodgings, such stealing shall be adjudged Larceny and Felony.

This Offence was formerly before the making of this Act but a Trespass; therefore the Indictment
must

must conclude against the Form of the Statute, as it is created Felony by the Statute.

M A I M I N G.

An Indictment for Felony; by slitting a Nose, and against the Aider and Abetter.

Suffolk. **T**HE Jurors for our Lord the King upon their Oath present, That *John Woodbourne*, late of the Borough of *Bury St. Edmund*, in the County of *Suffolk*, Labourer, and *Arundel Cooke*, otherwise *Coke*, late of the Borough aforesaid, in the County aforesaid, Esq; after the twenty-fourth Day of *June*, in the Year of our Lord, One thousand six hundred and seventy, to wit, on the first Day of *January*, in the eighth Year of the Reign of our Sovereign Lord *George*, now King of *Great Britain*, &c. contriving and intending one *Edmond Crispe*, then and yet being a Subject of our said Lord the King, to maim and disfigure, at the Borough aforesaid, in the County aforesaid, with Force and arms, in and upon the said *Edmond Crispe*, in the Peace of God, and our said Lord the King, then and there being, on Purpose, and of Malice afore-thought, and by lying in wait, unlawfully and feloniously did make an Assault, and the said *John Woodbourne*, with a certain Iron Bill, of the Value of one Penny, which he the said *John Woodbourne*, in his Right Hand, then and there had and held, the Nose of the said *Edmond Crispe*, on purpose, and of his Malice afore-thought, and by lying in wait, then and there, unlawfully and feloniously did slit,
with

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with Intention, the said *Edmond Crispe*, in so doing, in Manner aforesaid to maim and disfigure; and that the aforesaid *Arundel Cooke*, otherwise *Coke*, at the Time the aforesaid Felony, by the said *John Woodbourne*, in Manner and Form aforesaid, was done and committed, to wit, on the said first Day of *January*, in the eighth Year of the Reign aforesaid, at the Borough aforesaid, in the County aforesaid, with Force and Arms, on purpose, and of his Malice aforethought, and by lying in wait, unlawfully and feloniously was present, aiding and abetting the said *John Woodbourne*, in the Felony aforesaid, in Manner and Form aforesaid, done and committed. And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *John Woodbourne* and *Arundel Cooke*, otherwise *Coke*, on the said first Day of *January*, in the eighth Year of the Reign aforesaid, at the Borough aforesaid, in the County aforesaid, with Force and Arms, on purpose, and of their Malice aforethought, and by lying in wait, the Felony aforesaid, in Form aforesaid, unlawfully and feloniously did do and commit, and each of them did do and commit, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

By the Stat. 22 & 23 Car. 2 c. 1. If any shall of Malice aforethought, and by lying in wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member of any Person, with Intention to maim and Disfigure, they, their Counsellors, Aiders, and Abettors, shall be guilty of Felony without Benefit of Clergy.

Attainder on this Statute shall not work any Corruption of Blood or Forfeiture

Sir.

MURDER, &c. 513

Sir John Coventry, A Member of the House of Commons, had a little before the making of this Act, been assaulted in the Street, and his Nose slit, which was the Occasion of making this Act; therefore 'tis called Coventry's Act.

Upon this Statute Coke and Woodburne were tried, condemned, and executed at Suffolk Assises, 8 Geo. I. for slitting the Nose of Mr. Crispe.

MURDER, &c.

An Indictment for Felony and Murder by stabbing with a Knife.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Anthony Slayer*, late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Labourer, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the twelfth Day of *October*, in the seventh Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid in the County aforesaid, in and upon one *James Mildman*, in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of his Malice afore-thought, did make an assault; and that he

Deodand. the said *Anthony Slayer*, with a certain Knife of the value of Six-pence, which he the said *Anthony Slayer*, in his right Hand, then and there had and held, the said *James Mildman*, in and upon the left Side of the Belly, between the short Ribs of him the said *James*

L I

Mildman,

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Mildman, then and there feloniously, wilfully, and of his Malice afore-thought, did strike and thrust, giving to the said *James Mildman*, then and there, with the Knife afore-said, in and upon the above-said left side of the Belly, between the short Ribs of him the said *James Mildman*, one mortal Wound of the Breadth of three Inches. and Depth of six Inches, of which said mortal Wound, the said *James Mildman*, from the said twelfth Day of *October*, in the Year afore-said, until the fifteenth Day of the same Month of *October*, in the Year afore-said, at the Parish afore-said, in the County afore-said, did languish, and languishing did live, on which said fifteenth Day of *October* in the Year afore-said, the said *James Mildman*, at the Parish afore-said, in the County afore-said, of the said mortal Wound died; and so the Jurors afore-said, upon their Oath afore-said, do say that the said *Anthony Slayer*, the said *James Mildman*, in Manner and Form afore-said, feloniously, wilfully, and of his Malice afore-thought, did kill and murder, against the Peace of our said Lord the King his Crown and Dignity.

*An Indictment for Felony, and
Manlaughter by stabbing the Party
slain, not having striken the Slayer
first, nor having any Weapon
drawn.*

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That *Samuel Brook*, late of the Precinct of *St. Catherine*, in the County of *Middlesex*, Gent. not having

having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the fourteenth Day of *May*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Precinct aforesaid, in the County aforesaid, in and upon one *James Dawes*, in the Peace of God, and our said Lord the King, then and there being, feloniously and in the Fury of his Mind, did make an Assault; and that the said *Samuel Brook*, with a certain drawn Sword, of the Value of three Shillings, which he the said *Samuel Brook*, in his right Hand, then and there had and held, the said *James Dawes*, in and upon the right Side of the Belly, near the short Ribs of him the said *James Dawes* (the said *James Dawes* then and there not having any Weapon drawn, nor the said *James Dawes* then and there having first stricken the said *Samuel Brook*) then and there in the Fury of his Mind, feloniously did strike and stab, giving unto the said *James Dawes*, then and there, with the Sword aforesaid, in and upon the said right Side of the Belly, near the short Ribs of him the said *James Dawes*, one mortal Wound of the Breadth of four Inches, and Depth of seven Inches, of which said mortal Wound, he the said *James Dawes*, then and there instantly died, and so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *Samuel Brook*, the said *James Dawes* in Manner and Form aforesaid, then and there feloniously, and in the Fury of his Mind, did kill and slay, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

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By the Stat. 1 Jac. 1. c. 8. intituled, An Act to take away the Benefit of Clergy for some kind of Manslaughter 'tis enacted, That every Person and Persons which shall stab, or thrust any Person or Persons, that hath not then any Weapon drawn, or that hath not then first stricken the Party which shall so stab or thrust, so as the Person or Persons so stabbed or thrust, shall therefore die within the Space of six Months then next following, altho' it cannot be proved that the same was done of Malice aforethought, yet the Party so offending, and being thereof convicted by Verdict of twelve Men, Confession, or otherwise, according to the Laws of this Realm, shall be excluded from the Benefit of Clergy, and suffer Death as in Case of wilful Murder.

Provided, that this Act shall not extend to any Person or Persons which shall kill any Person or Persons *Se defendendo*, or by Misfortune, or in any other Manner than as aforesaid, nor to any Person or Persons which in keeping and preserving the Peace, shall chance to commit Manslaughter, so as the said Manslaughter be not committed wittingly, willingly, and of purpose, under pretext and colour of keeping the Peace, nor shall extend to any Person or Persons, which in chastizing or correcting a Child or Servant, shall, besides his or their Intent and Purpose, chance to commit Manslaughter.

This Statute the Lord Chief Justice Hale, in his *Historia placitorum Coronæ*, Vol. 1. p. 456. says, was but provisional, because the Juries were apt, upon any verbal Provocation, to find the Fact to be Manslaughter; (and further says my Lord) Many who were of Opinion, that bare Words of slighting, disdain, or contumely, would not of themselves make such a Provocation, as to lessen the Crime into Manslaughter, yet were of this Opinion, that

that if A gives indecent Language to B, and B thereupon strikes A, but not mortally, and then A strikes B, and then B kills A, that this is but Manslaughter, for the second Stroke made a new Provocation, and so it was but a sudden falling out, and tho' B gave the first Stroke, and after a Blow received from A, B gives him a mortal stroke, this is but Manslaughter according to the Proverb, 'the second Blow makes the Affray;' and this was the Opinion of his Lordship, and some others.

The Words of the Statute are stab or thrust, if the stabbing or thrusting were with Sword or Pike-staff, it is within the Statute; so it seems, if it be a Shot with a Pistol, or Blow with a Sword or Staff; yet Quare, for Justice Jones denied it.

It has been usual in Cases of this Nature, to prefer two Indictments, one for Murder another upon this Statute, and put the Prisoner to plead to both, and to charge the Jury with the Indictment of Murder, and if they find it not Murder, then to charge them to inquire upon the other Indictment, because if convicted upon either, the Offender is ousted of Clergy.

The Indictment to put the Prisoner from his Clergy, must be specially formed, pursuant to the Statute, viz. that he did with a Sword, &c stab the Party dead, he having no weapon drawn, nor having striken first, as in the above precedent, otherwise it will be but a common Manslaughter, and the Party will have his Clergy.

The Indictment need not conclude, against the Form of the Statute, no more than in Burglary or Robbery, for the Statute doth not make the Offence to be Felony, but ousts the Prisoner of his Clergy, where the Crime is so circumstantiated, as the Statute expresseth: This was agreed in the Case of Page and Harwood; H. 23 Car. 1. B. R. Alcy. 4. Styl. 86.

Hale's Historia
placitorum Cor.

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But it is safe to conclude against the Form of the Statute; for this Case, as reported in Style 86, is not agreed to be so; on the contrary, it was denied by Roll.

No man is ousted of Clergy by this Statute, but he that actually stabs, &c. therefore Aiders and Assisters in such Case, can be only found guilty of simple Manslaughter, and have their Clergy.

The twenty-second of March, 14 Car. 1. at Newgate Sessions, David Williams was indicted specially upon this Statute; for that he with a certain Hammer, made of Wood and Iron, out of his Right Hand, against and to the Forehead of Francis Marbury, feloniously, and in the Fury of his Mind, did fling, and with the said Hammer, the said Francis, in and upon his Forehead, feloniously, and in the Fury of his Mind, did strike, stab, and thrust, the said Marbury having no Weapon drawn, nor struck first. whereof he instantly died; and so in Manner and Form afore-said, the said Francis, did feloniously kill and slay, against the Form of the Statute. The Prisoner pleaded Not Guilty; and a special Verdict was found, viz. that upon St. David's Day, the Prisoner being a Welshman, had a Leek in his Hat, and that there was, at the same Time, a Waggers, a Jack-a-lent, in the Street put up, with a Leek, and one Nicholas Redman, a Porter, spoke to the Prisoner, and pointing to the Jack-a-lent, said, Look at your Countryman. The Prisoner being therewith enraged, threw a Hammer at Redman, to the Intent feloniously to hit him, but missing him, the Hammer hit Francis Marbury, whereof he died; and so the said David, the said Francis, with the said Hammer, did stab and thrust, the said Francis then not having any Weapon drawn, nor then having first striken the the said David; and it was adjudged by
Bramston,

Bramston, Jones, and the Recorder Gardiner, that Williams was guilty of Manslaughter at Common Law, but not against the Form of the Statute; so that it seems, they thought not this to be a Stabbing, within the Statute, being done with the Throwing of the Hammer; or at least they took the killing of Marbury, which was not at all intended by Williams, to be out of the Statute, tho' it excused him not for Manslaughter, at Common Law. 1 Jones 342.

Lord Chief Justice Holt, in Mawgridge's Case, Keyl. 131, Holt 484, concurs with this Judgment, for that it was not such a Weapon or Act, as is within the Statute of Stabbing; but he is of Opinion, that Williams ought to have been found guilty of Murder, if the Indictment had been so laid, for that there was not a sufficient Provocation, to lessen the Offence to Manslaughter.

An Indictment for Felony and Murder, by shooting with a Pistol, and against the Aiders and Assisters.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That Simon Darby, late of the Parish of Hendon, in the County of Middlesex, Labourer, Robert Sourby, late of the same, Labourer, and Thomas Simpson, late of the same, Labourer, not having the Fear of God before their Eyes, but being moved and seduced by the Instigation of the Devil, on the twenty-first Day of September, in the eleventh Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon Thomas Knight,

in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of their Malice before-thought, did make an Assault, and that the said *Robert Sourby*, a certain Pistol of the Value of five Shillings, then and there, charged with Gun-powder, and one Leaden Bullet, which Pistol, he the said *Robert Sourby*, in his Right Hand, then and there had and held, to, against, and upon the said *Thomas Knight*, then and there, feloniously, wilfully, and of his Malice before-thought, did shoot and discharge; and that the said *Robert Sourby*, with the Leaden Bullet aforesaid, out of the Pistol aforesaid, then and there, by Force of the Gun-powder, shot and sent forth as aforesaid, the aforesaid *Thomas Knight*, in in and upon the left Breast of him the said *Thomas Knight*, a little above the left Pap of him the said *Thomas Knight*, then and there, with the Leaden Bullet aforesaid, out of the Pistol aforesaid, by the said *Robert Sourby*, so as aforesaid shot, discharged, and sent forth, feloniously, wilfully, and of his Malice before-thought, did strike, penetrate, and wound, giving to the said *Thomas Knight*, then and there, with the Leaden Bullet aforesaid, so as aforesaid, shot, discharged, and sent forth, out of the Pistol aforesaid, by the said *Robert Sourby*, in and upon the said left Breast of him the said *Thomas Knight*, a little above the left Pap of him the the said *Thomas Knight*, one mortal Wound, of the Debth of four Inches, and of the Breadth of half an Inch, of which said mortal Wound, the aforesaid *Thomas Knight*, then and there instantly died; and that the aforesaid, *Simon Darby* and *Thomas Simpson*, then and there, feloniously, wilfully, and of their Malice before-thought, were present, aiding, helping, abetting, comtorting, assisting, and maintaining the said *Robert Sourby*, the

the Felony and Murder aforefaid, in Manner and Form aforefaid, to do and commit, and fo the Jurors aforefaid, upon their Oath aforefaid, do fay, that the faid *Robert Sourby*, *Simon Darby*, and *Thomas Simpson*, the faid *Thomas Knight*, then and there, in Manner and Form aforefaid, feloniously, wilfully, and of their Malice before-thought, did kill and murder, againft the Peace of our faid Lord the King, his Crown and Dignity.

Note, That Malice afore-thought, is as frequently ufed as before-thought, but rather the Word aforethought.

Note, Tho' but one Perfon gives the Stroke, all prefent, aiding and affifting, are equally Culpable, and deem'd Principals in Murder; but anciently, he that ftruck the Stroke, whereof the Party died, was only Principal, and thofe that were prefent aiding and affifting, were but in the Nature of Accessaries, and fhould not be put upon their Trial, 'till he that gave the Stroke was attainted by Outlawry or Judgment.

An Indictment for Felony and Murder; where the Stroke is given in one County, and the Party dies in another.

Middlefex. **T**HE Jurors for our Lord the King upon their Oath prefent, That *James Stanton*, late of *Hatfield* in the County of *Hertford*, Yeoman, not having the Fear of God before his Eyes, but being moved and feded by the Infatigation of the Devil, on the twenty-ninth Day of *September*, in the fixth Year of the Reign of
our

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our Sovereign Lord *George* the Second now King of *Great Britain*, &c. with Force and Arms, at *Hatfield* aforefaid, in the faid County of *Hertford*, in and upon one *Samuel Palmer*, in the Peace of God and our faid Lord the King, then and there being, feloniously, wilfully, and of his Malice aforethought, did make an Assault, and that the faid *James Stanton*, with both his Hands and Feet, the faid *Samuel Palmer*, to and againft the Ground, then and there feloniously, wilfully, and of his Malice aforethought, did caft and throw; and the faid *Samuel Palmer*, fo upon the Ground lying, he the faid *James Stanton*, with both the Hands and Feet aforefaid of him the faid *James Stanton*, the faid *Samuel Palmer*, in and upon the Head, Stomach, Back, and Sides, of him the faid *Samuel Palmer*, then and there feloniously, wilfully, and of his Malice aforethought, did ftrike, beat, and kick, giving to the faid *Samuel Palmer*, as well by the cafting and throwing of him the faid *Samuel Palmer* to the Ground aforefaid, as alfo by ftriking, beating, and kicking the faid *Samuel Palmer*, in and upon the Head, Stomach, Back, and Sides of him the faid *Samuel*, with both the Hands and Feet of him the faid *James Stanton*, in Manner aforefaid, feveral mortal Bruifes, of which faid feveral mortal Bruifes, the faid *Samuel Palmer*, from the faid twenty-ninth Day of *September*, in the Year aforefaid, until the firft Day of *October* in the fame Year, as well at *Hatfield* aforefaid, in the County of *Hertford* aforefaid, as alfo at the Parifh of *Fryan Barnet*, in the County of *Middlefex*, did languifh, and languifhing did live; on which faid firft Day of *October*, in the faid fixth Day of the Reign of our faid now Lord the King, the faid *Samuel Palmer*, at the faid Parifh of *Fryan Barnet*, in the faid County of *Middlefex*, of the feveral mortal Bruifes

Bruises aforefaid died ; and fo the Jurors aforefaid, upon their Oath aforefaid, do fay, That the faid *James Stanton*, the faid *Samuel Palmer* in Manner and Form aforefaid, feloniously, willfully, and of his Malice afore-thought, did kill and murder, againft the Peace of our faid Lord the King, his Crown and Dignity.

* By the Stat. 2 & 3 Ed. 6. c. 24. 'tis enacted, That where any Person or Persons fhall be feloniously ftriken or poisoned in one County, and die of the fame Stroke or Poisoning in another County, that then an Indictment thereof, found by Jurors of the County where the Death fhall happen, whether it fhall be founden before the Coroner, upon the Sight of fuch dead Body, or before the Juftices of Peace, or other Juftices or Commissioners which fhall have Authority to inquire of fuch Offences, fhall be as good and effectual in the Law, as if the froke or Poisoning had been committed and done in the fame County where the Party fhall die, or where fuch Indictment fhall be fo founden ; any Law or Usage to the contrary notwithstanding.

And that the Juftices of Gaol Delivery, and Oyer and Terminer, in the fame County where fuch Indictment at any Time fhall be taken, and alfo the Juftices, of the King's Bench, after fuch Indictment fhall be removed before them, fhall and may proceed upon the fame in all Points, as they fhould or ought to do, in Cafe fuch felonious Stroke, and Death thereby enfuing, or poisoning and Death thereof enfuing, had grown all in one and the fame County.

* The Trial of Man-quellers, that poison or ftrike a Man in one County, which dieth thereof in another.

Murder

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Murder and Manslaughter differ not in Kind or Nature of the Offence, but only in the Degree, the former being the killing of a Man of Malice prepense; the latter upon a sudden Provocation and falling out. Therefore 'tis, that upon an Indictment of Murder, the Offender may be, and often is, acquitted of Murder, and yet found guilty of Manslaughter.

The Difference between the Offences of Murder and Manslaughter, rest in these Particulars;

1. *In Degree and Quality of the Offence, for Murder, as aforesaid, is accompanied with prepense Malice, either express or presumed; but bare Homicide is upon a sudden Provocation or falling out.*

2. *Therefore in Murders there may be Accessories before as well as after, because it is an Act of Deliberation, and not merely of sudden Passion: But in bare Homicide, or Manslaughter, there can be no Accessories before, tho' there may be Accessories after; and therefore upon an Indictment for Murder against A, and against B and C for counselling and abetting as Accessories before only, and not as present, (for such are Principals,) if A be found guilty only of Manslaughter, and acquitted of Murder, the Accessories before are discharged.*

3. *The Indictment of Murder essentially requires these Words; feloniously, and of Malice aforethought, did kill and murder: But the Indictment of simple Homicide, is only feloniously did kill.*

4. *At Common Law, and by the Stat. 25 Edw. 3. c. 4. Clergy was promiscuously allowed, as well in Case of Murder, as of Homicide or Manslaughter;*

yet

yet by the Stat. 23 H. 8. c. 1. 25 H. 8. c. 3. 1 E. 6. c. 12. 5 and 6. Edw. 6. c. 10. Clergy is taken away from Murder of Malice afore-thought.

Such Malice that makes the killing of a Man to be Murder, is of two Kinds; first, Malice in Fact; second Malice in Law, or Presumption of Law. Malice in Fact, is a deliberate Intention of doing some corporal Harm to the Person of another.

1. Malice in Law, or presumed Malice, is of several Kinds; viz. in Respect of the Manner of the Homicide, when without Provocation; 2. in Respect to the Person kill'd; viz. a Minister of Justice in Execution of his Office; 3. in Respect of the Person killing.

Malice in Fact, is a deliberate Intention of doing any bodily Harm to another, whereunto by Law he is not authorized.

The Evidences of such Malice, must arise from external Circumstances, discovering the inward Intention, as lying in wait, menacing, former Grudgings, deliberate Compassings, and such like, which are many, according to Variety of Circumstances; It must be a Design to do some bodily Harm.

If there be an old Quarrel betwixt A and B, and they are reconciled again, and then upon a new and sudden Falling-out, A kills B, this is not Murder; but if upon Circumstances it appears, that the Reconciliation was but pretended or counterfeited, and that the Hurt was done upon a former Grudge, and old Malice, then it is Murder.

If there be Malice by A against B, and by B against A, and they meet, and upon Account of that Malice, A strikes B, and B thereupon kills A (otherwise than in his own necessary Defence)

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it is Murder in B; but if they meet accidentally, and A assaults B first, and B, merely in his own Defence, without any other malicious Design, kills A; this is not Murder, but upon a new and sudden Emergency for the safeguard of his Life; but if A and B had met deliberately to fight, and A strikes B, and pursues B so closely, that B, in Safeguard, of his own Life, kills A, this is Murder in B. Because their meeting was a compact, and an Act of Deliberation; and therefore all that follows thereupon, is presum'd to be done in Pursuance thereof, and thus is Mr Dalton, c. 93. p. 241, to be understood.

If A commands B to kill C, and before the Act done, repents and countermands B, and charges him not to do it, yet B doth it, A is not guilty. Co. P. Cr. p. 51.

If A and B. fall suddenly out, and they presently agree to fight in the Field, and fight, and A kills B, this is not Murder, but Homicide; for it is but a Continuance of the sudden falling out, and the Blood was never cool'd; but if there were Deliberation, as that they meet the next Day; nay, tho' it were the same Day, if there were such a competent Distance of Time, that in a common Presumption they had Time of Deliberation, then it is Murder. Co. P. C. p. 51.

A the Son of B, and C the Son of D, fall out in the Field and fight; A is beaten, and runs home to his Father all bloody, B presently takes a Staff, runs into the Field, being three Quarters of a Mile Distance, and strikes C that he dies, this is not Murder in B, because done in sudden Heat and Passion. T. 9 Jac. B. R. 12 Co. Rep. p. 87. Cro. Jac. 296. Royley's Case.

A Boy came into Osterly Park to steal Wood, and seeing the Woodward, climbs up a Tree to hide himself; the Woodward bids him come down; he comes down, and the Woodward struck him twice, then bound him to his Horse's Tail, and drag'd him 'till his Shoulder was broke, whereof he died; it was rul'd Murder; because, first, the Correction was excessive, and second, it was an Act of deliberate Cruelty. M. 4. Car. B. R. Holloway's Case. Cro. Car. 131. Palm. 545. 1 Jones 198.

If a Master designeth moderate Correction to his Servant, and accordingly useth it, and the Servant by some Misfortune dies thereof, this is not Murder, but by Misfortune. Crompt. 136. Dalt. cap. 148, p. 478. because the Law alloweth him to use moderate Correction, and therefore the deliberate Purpose thereof is not of Malice afore thought.

If a Sheriff hath a Warrant to hang a Man for Felony, and he beheads him, this is held Murder, for 'tis an Act of Deliberation. Co. P. C. p. 52.

It may not be improper here, to shortly mention such Persons particularly, that are not chargeable with Homicide, and other some that are.

If one that is Non Compos Mentis, or an Ideot, kill a Man, this is no Felony, for they have not Knowledge of Good and Evil, nor can have a felonious Intent, nor a Will or Mind to do Harm; and no Felony nor Murder can be committed without a felonious Intent and Purpose.

A Madman is without his Mind or Discretion, and is only, and enough punished by his Madne's. Co. Lit. 247.

There are three Sorts of Persons accounted Non Compos Mentis:

1. A Fool natural, who is so from his Birth, and in such a one there is no Hope of Recovery.

2. He

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2. *He who was once of good and sound Memory, and after (by Sickness, Hurt or other Accident, or Visitation of God) looseth his Memory.*

3. *A Lunatic, sometimes of good Understanding and Memory, and sometimes not but Non Compos Mentis.*

If it appear by Circumstances, that an Infant under the Age of Discretion, could distinguish between Good and Evil, as if one of the Age of nine or ten Years kill another, and hide the Body or make Excuses, or hide himself he may be convicted and condemned, and forfeit, &c. as much as if he were of full Age. But in such a Case the Judges will in Prudence respite the Execution, to get a Pardon: And it is said, that if an Infant apparently wanting Discretion, be indicted and found guilty of a Felony the Judge may dismiss him without a Pardon. H. P. C. 43. 12 Afs. pl. 30. 3 H. 7. 1. 6. 12. 6. Bro. Coron. 74. 133. S. P. C. 16. f. H. P. C. 35. 35, H. 6. 11. 6. Bro. Coron. 6. 6r. 1. H. H. P. C. 26. 27. 434. 559. 570. Regist. 309. 6. 1 Hawk. P. C. 2.

If a Man that is Drunk killeth another, that is Felony of Death; for it is a voluntary Ignorance in him, and inasmuch as such Ignorance cometh to him by his own in his Act and Folly. Coke Lit. 247, calls a Drunkard Voluntarius Dæmon, and saith, that such a one hath no Privilege thereby, but what Hurt or Ill-foever he doth, his Drunkeness doth aggravate it.

NOTES.

*An Indictment for Felony, in stealing
a Promissory Note.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Charles Day*, late of the Parish of *St. Andrew, Holborn*, in the County of *Middlesex*, Yeoman, on the second Day of *September*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, feloniously did steal, take, and carry away, one promissory Note, signed under the Hand of *George Clifton*, bearing Date the sixteenth Day of *November*, in the Year of our Lord, One thousand seven hundred and thirty-four, of the Value of sixty-five Pounds, by which said Note, the said *George Clifton* did promise to pay to *William Clifton*, or Order, sixty-five Pounds, three Months after Date (the said Note, at the Time of the committing the Felony aforesaid, being the Property of one *Andrew Boyle*, and the said Sum of sixty-five Pounds, payable and secured by the same promissory Note, being then due and unsatisfied to the said *Andrew Boyle*, the Proprietor thereof) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 2 Geo. 2. c. 25. intituled, *An Act for the more effectual preventing, and further*
M m *Punishment*

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Punishment of Forgery, Perjury, and Subornation of Perjury; and to make it Felony to steal Bonds, Notes, or other Securities for Payment of Money) 'tis enacted, That if any Person or Persons, after the twenty-ninth Day of June, shall steal, or take by Robbery, any Exchequer Orders or Tallies, or other Orders, intitling any other Person or Persons to any Annuity, or Share of any parliamentary Fund, or any Exchequer Bills, Bank Notes, South-Sea Bonds, East-India Bonds, dividend Warrants of the Bank, South-Sea Company, Society, or Corporation, Bills of Exchange, Navy Bills, or Debentures, Goldsmiths Notes for Payment of Money, or other Bonds, or Warrants, Bills or promissory Notes, for the Payment of any Money, being the Property of any other Person or Persons, or of any Corporation, notwithstanding any of the said Particulars, are termed in Law, a Chose in Action *, it shall be deemed and construed to be Felony, of the same Nature, and in the same Degree, and with or without the Benefit of Clergy, in the same Manner as it would have been if the Offender had stolen, or

* *Thing in Action* is, when a Man hath Cause, or may bring an Action for some Duty due to him; as an Action of Debt upon Obligation, Annuity, or Rent, Action of Covenant or Ward, Trespas of Goods taken away, beating, or such like; and because they are Things whereof a Man is not possessed, but for Recovery of them, is driven to his Action; they are called *Choses or Things in Action*; and those Things in Action which are certain, the King may grant, and the Grantee may have an Action for them in his one Name only: But a common Person cannot grant his *Thing in Action*, nor the King himself his *Thing in Action*, which is as uncertain, as Trespas, and such like: But of late Times it is used in London, that Merchants, and others there, who have Bills without Seals, for Payment of Money, assign them to others, who bring Actions in their own Names.

taken

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taken by Robbery, any other Goods of like Value, with the Money due on such Orders, Tallies, Bills, Bonds, Warrants, Debentures, or Notes, or secured thereby, and remaining unsatisfied; and such Offender shall suffer such Punishment. as he or she should or might have done, if he or she had stolen other Goods of the like Value, with the Monies due on such Orders, Tallies, Bonds, Bills, Warrants, Debentures, or Notes, respectively, or secured thereby, and remaining unsatisfied; any Law to the contrary thereof, in any wise used notwithstanding.

This Act extends not to Scotland, nor works Corruption of Blood, &c.

This Act was made perpetual by the Stat. 9 Geo. 2. c. 18.

P I R A C Y.

An Indictment for Piracy; causing a Revolt in a Merchant's Ship, and running away with the same, and the Apparel, Tackle and Goods.

Admiralty of **T**HE Jurors for our said Lord England. the King upon their Oath present, That *Edward Johnson*, late of London, Mariner, *Nicholas Williams*, late of London, Mariner, and *Lawrence Simmet*, late of London aforesaid, Mariner, on the seventh Day of September, in the tenth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. with Force and Arms, upon the high Sea, within the Jurisdiction of the Admiralty of England, about half a League distant from

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Leghorn in *Italy*, in Parts beyond the Seas, then being Mariners, in and on Board a certain Merchant Ship called the *Dove*, belonging, and appertaining to Subjects of our said Lord the King (to the Jurors aforesaid as yet unknown) whereof one *Benjamin Hawes*, a Subject of our said Lord the King, then and there was Master, piratically and feloniously did endeavour to make, and did make a Revolt in the same Ship (the said *Benjamin Hawes*, then and there being Master of the same Ship as aforesaid) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their oath aforesaid, do further present, That the said *Edward Johnson*, *Nicholas Williams*, and *Laurence Simmet*, on the said seventh Day of *September*, in the Year aforesaid, then being Subjects of our said Lord the King, and Mariners in the said Ship called the *Dove*, belonging and appertaining to Subjects of our said Lord the King (to the Jurors aforesaid as yet unknown) with Force and Arms, upon the high Sea aforesaid, about half a League distant from *Leghorn* aforesaid, in and on Board the said Ship called the *Dove*, whereof the said *Benjamin Hawes*, a Subject of our said Lord the King, then and there was Master as aforesaid, did betray the Trust in them reposed as Mariners of the same Ship, and then and there, upon the high Sea aforesaid, within the said Jurisdiction, with Force and Arms, did turn Pirates, and the same Ship, and the Apparel and Tackel thereof, of the Value of two hundred Pounds of lawful Money of *Great Britain*, and one hundred Hogsheads of Sugar, of the Value of one hundred Pounds of like lawful Money, one hundred and fifty Bales of Tobacco, of the Value of one hundred Pounds and two Bales

of

of Velvet of the Value of one hundred and fifty Pounds of like lawful Money, of the Goods and Chattels of certain Subjects of our said Lord the King (to the Jurors aforesaid as yet unknown) then and there being in the said Ship, under the Care and Custody, and in the Possession of the said *Benjamin Hawes*, as Master of the said Ship, then and there, upon the high Sea aforesaid, within the Jurisdiction of the Admiralty aforesaid, about the Distance of half a League from *Legborn* aforesaid, with Force and Arms from the Care, Custody, and Possession of the said *Benjamin Hawes*, piratically and feloniously did steal, take, and run away with (they the said *Edward Johnson*, *Nicholas Williams*, and *Lawrence Simnet*, then and there being Mariners of the said Ship, and in and on Board the said Ship, on the high Sea as aforesaid) against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

Note, *The Indictment must alledge the Fact to be done upon the Sea, &c. and feloniously and piratically.*

By the Stat. 28 Hen. 8. c. 15 It is enacted, That all Felonies and Robberies, &c. upon the Sea, or in a Haven, River, Creek, or Place, where the Admiral or Admirals have or pretend to have Power, Authority, or Jurisdiction, shall be inquired, tried, heard, determined, and adjudged in such Shires and Places in this Realm, as shall be limited by the King's Commission or Commissions to be directed for the same, in like Form and Condition, as if such Offence or Offences had been committed or done in or upon the Land, and such Commissions shall be had under the King's great Seal, directed to the Admiral or Admirals, or his or their Lieutenant, Deputy

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and Deputies, and to three or four such other substantial Persons, as shall be named or appointed by the the Lord Chancellor of England, for the Time being, from Time to Time, and as oft as Need shall require, to hear and determine such Offences, after the common Course of the Laws of this Land, used for Felonies, and Robberies, &c. done and committed upon the Land within this Realm.

And it is further enacted, by the said Statute, That if any Person or Persons happen to be indicted for any such Offence done, or hereafter to be done, upon the Seas, or in any other Place above limited, that then *sic*'s Order, Process, Judgment, and Execution, shall be used, had, done, and made to and against every such Person and Persons so being indicted, as against Felons, &c. for any Felony, &c. upon the Land, as by the Laws of this Land is accustomed.

And it is further enacted, by the same Statute, That such as shall be convicted of any such Offence by Verdict, Confession, or Process, by Authority of any such Commission, shall have and suffer such Pains of Death, Losses of Lands, Goods, and Chattels, as if they had been attainted and convicted of such Offence done upon the Land, and also that they shall be excluded from the Benefit of Clergy.

And it is enacted, by the Stat. 11 *E* 12 *W.* 3. c. 7. which was made perpetual by the Stat. 6 *Geo.* 1. c. 19. That all Piracies, Felonies, and Robberies committed in or upon the Sea, or in any Place where the Admiral has Jurisdiction, may be tried and determined at Sea, or upon the Land, in any of his Majesty's Islands and Plantations, &c. to be appointed by the King's Commission, under the Great Seal, or the Seal of the Admiralty, directed to any of the Admirals, &c. and such Persons and Officers by Name, or for the Time being, as his Majesty

Majesty shall think fit, who shall have Power jointly, and severally by Warrant under Hand and Seal of any of them, to commit any Person against whom Information of any such Offences shall be given upon Oath, and to call a Court of Admiralty, which shall consist of seven Persons, at the least, and shall proceed in the Trial of the said Offenders, according to such Directions as are set forth at large in the said Statute.

And it is further enacted, by the said Statute, That if any of his Majesty's natural born Subjects or Denizens of this Kingdom, shall commit any Piracy, or Robbery, or any Act of Hostility, against other his Majesty's Subjects, upon the Sea, under Colour of any Commission from any foreign Prince or State, or Pretence of Authority from any Person whatsoever, such Offender and Offenders, shall be deemed and adjudged, and taken to be Pirates, Felons, and Robbers; and they, and every of them, being duly convicted thereof, according to this Act, or the aforesaid Statute of King Henry the Eighth, shall have and suffer such Pains of Death, Loss of Lands, Goods, and Chattels, as Pirates, Felons, and Robbers upon the Seas ought to have and suffer.

And it is further enacted, by the said Statute, That if any Commander, or Master of any Ship, or any Seamen or Mariner, shall in any Place where the Admiral hath Jurisdiction, betray his Trust and turn Pirate, Enemy, or Rebel, and piratically and feloniously run away with his or their Ship or Ships, or any Barge, Boat or Ordnance, Ammunition, Goods or Merchandize, or yield them up voluntarily to any Pirate, or bring any seducing Message from any Pirate, Enemy, or Rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt any Commander, Master, Officer or Mariner, to yield up or run away with any Ship,

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Goods, or Merchancize, or turn Pirate, or go over to Pirates, or if any Person shall lay violent Hands on his Commander, whereby to hinder him from fighting in Defence of his Ship and Goods committed to his trust, or shall confine his Master, or make, or endeavour to make a Revolt in his Ship, he shall be adjudged to be a Pirate, Felon, and Robber; and being convicted thereof according to the Direction of this Act, shall have and suffer Pains of Death, Loss of Lands, Goods and Chattels, as Pirates, Felons, and Robbers upon the Seas ought to have and suffer.

And it is further enacted, by the said Statute, That all and every Person and Persons whatsoever, who shall either on the Land, or upon the Seas, wiltingly or knowingly set forth any Pirate, or aid or assist, or maintain, procure, command, counsel; or advise any Person or Persons whatsoever, to do or commit any Piracies or Robberies upon the Seas, and such Person or Persons shall thereupon do and commit any such Piracy or Robbery, then all and every such Person or Persons whatsoever, so as aforesaid, setting forth any Pirate, or aiding or assisting, maintaining, procuring, commanding, counselling, or advising the same, either on Land or upon the Sea, shall be adjudged to be Accessary to such Piracy and Robbery done and committed. And further, that after any Piracy or Robbery is or shall be committed by any Pirate or Robber whatsoever, every Person or Persons, who knowing that such Pirate or Robber has done or committed such Piracy and Robbery, shall, on the Land, or upon the Sea receive, entertain, or conceal any such Pirate or Robber, or receive, or take into his Custody, any Ship, Vessel, Goods or Chattels, which have been by such Pirate or Robber piratically and feloniously taken, shall be by this Statute likewise adjudged to be Accessary

Accessory to such Piracy and Robbery; and that all such Accessories to such Piracies and Robberies shall be inquired of, tried heard, determined and adjudged according to the common Course of Law, according to the said Statute of 28 H. 8. as the Principals of such Piracies and Robberies may be, and no otherwise; and being thereupon attainted, shall suffer such Pains of Death, Loss of Lands, Goods and Chattels, and in like manner as the Principals of such Piracies, Robberies and Felonies, ought to suffer according to the said Statute of 28 H. 8. which is declared to be in full Force, any thing in this Act to the contrary notwithstanding.

By the Stat. 4 Geo. I. c. 11. All Persons who shall commit any Offence for which they ought to be adjudged Pirates, Felons, and Robbers, by the Stat. 11 & 12 W. 3. may be tried and judged for every such Offence, according to the Form of the Statute 28 H. 8. and shall be excluded from their Clergy.

R A P E.

An Indictment for Ravishing a Woman.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. George Hanover-Square*, in the County of *Middlesex*, Gentleman, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the fourth Day of *September*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of Great Britain, &c. with Force and Arms, at the Parish of *St. Martin*

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Martin in the Fields, in the County of Middlesex aforeſaid, in and upon one *Ann Pickle*, Spinſter, in the Peace of God, and our ſaid Lord the King, then and there being, violently and feloniously did make an Affault, and her the ſaid *Ann Pickle*, againſt the Will of her the ſaid *Ann*, then and there feloniously did raviſh and carnally know, againſt the Form of the Statute in ſuch Caſe made and provided, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

Rape was a Felony at Common Law; then by the Stat. Weſtm. 1. c. 13. made but a Miſdemeanor; then by the Stat. of Weſtm. 2. c. 34. made Felony again; and by the Stat. 18 Eliz. c. 7. Clergy is taken away upon Conviction, Verdict, Confefſion, or Outlawry.

And for the plain Declaration of Law, 'tis enacted, *That if any Perſon ſhall unlawfully and carnally know, and abuſe any Women Child, under the Age of ten Years, every ſuch unlawful and carnal Knowledge, ſhall be Felony, and the Offender, thereof being duly convicted, ſhall ſuffer as a Felony, without Allowance of Clergy.*

So that if the Party raviſhed be under the Years of ten, you muſt ſet forth her Age, and ſay in the Indictment, inſtead of the Words (againſt her Will, did feloniously raviſh, and carnally know) did unlawfully and feloniously know and abuſe, becauſe 'tis Felony within the Meaning of the Statute, whether ſhe conſented or not, being under the Age of ten Years; and if the Woman be above Ten, of ſhe does not conſent at the Time of committing the Fact; 'tis a Rape tho' ſhe ſhould conſent afterwards.

'Tis no Mitigation, to ſhew that a Woman yielded to the Violence if her Conſent was forced by Fear of Death or Duress, nor if ſhe conſented after the Fact, 'tis no Excuse.

'Tis

'Tis a great Presumption of a Woman's Consent, if she made no Complaint in a reasonable Time after the Fact.

There must be some degree of Penetration, and also of Emission, to amount to a Rape, but an Emission is primâ facie, an Evidence of Penetration.

Q. If a Woman conceives, can it be adjudged against her Consent; tho' there are Opinions, that it seems very questionable, not only because the previous Violence is no way extenuated by a subsequent Consent, but also, because that if it was necessary to shew, that the Woman did not conceive, the Offender could not be tried till such Time that it might appear whether she did or not.

Note, All who are present, and actually assisting to commit a Rape, may be indicted as principal Offenders, whether they be Men or Women.

R I O T.



An Indictment for a Riot, by above the Number of twelve Persons, not dispersing, but remaining an Hour after Proclamation read.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Labourer, *E. D.* late of the same Baker, *F. G.* late of the same, Blacksmith, *H. J.* late of the same, Weaver, and divers other Persons, to the Number of twelve and more, to the Jurors aforesaid as yet unknown, after the last Day of *July*, in the Year of our Lord One thousand seven hundred and fifteen, to wit,
on

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on the sixteenth Day of *March*, in the ninth Year of the Reign of our Sovereign Lord *George* the second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, tumultuously, and feloniously did assemble and meet together to the Disturbance of the publick Peace; and that afterwards, to wit, on the said sixteenth Day of *March*, in the said ninth Year of the Reign of our said now Lord the King, at the Parish aforesaid, in the County aforesaid, *Thomas Deveil*, Esq; then one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, aforesaid, and also to hear, and determine divers Felonies, Trespasses, and other Misdeeds committed in the same County, did then and there come as near as he safely could to the said *A. B.*, *E. D.*, *F. G.*, *H. J.*, and the said divers other Persons, to the Number of twelve and more, to the Jurors aforesaid, as yet unknown, being then and there so assembled, to the Disturbance of the publick Peace as aforesaid, and with a loud Voice, he said *Thomas Deveil*, did then and there command, and cause to be commanded, Silence to be while Proclamation was making; and the said *Thomas Deveil*, after that did then and there openly, and with a loud Voice, make Proclamation (according to the Form of the Statute in such Case made and provided) in these

The Proclamation recited.

Words following, that is to say,
Our Sovereign Lord the King chargeth and commandeth all Persons, being assembled, immediately to disperse themselves, and peaceably to depart to their Habitations, or to their lawful Business, upon Pains contained in the Act, made in the first Year of King *George*, for preventing Tumults and riotous Assemblies. God save the

the King. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. B, E. D, F. G, H. &c.*, and the said divers other Persons, to the Number of twelve and more, to the Jurors aforesaid as yet unknown, afterwards, to wit, on the said sixteenth Day of *March*, in the said ninth Year of the Reign of our said now Lord the King, with Force and Arms, at the Parish of *St. Giles in the Fields* aforesaid, in the County aforesaid (notwithstanding the said Proclamation was so openly made as aforesaid) did then and there feloniously, riotously, and tumultuously, to the Disturbance of the publick Peace, remain and continue by the Space of one Hour after such Command made by the Proclamation so as aforesaid, against the Form of the Statute in such Case made and provided, in Contempt of our said now Lord the King and his Laws, to the evil Example of all others in like Case offending, to the great Disturbance and Terror of the quiet and peaceable Subjects of our said now Lord the King, and against the Peace of our said now Lord the King, his Crown and Dignity.

*By the Stat. 1 Geo. 1. Stat. 2. c. 5. If any Persons to the Number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the publick Peace, at any Time after the last Day of July, in the Year of our Lord One thousand seven hundred and fifteen, and being commanded by any one or more Justices, or Justice of the Peace of the County, Sberiff, or Under Sberiff, Mayor, bailiff, &c. where such Assembly shall be by Proclamation to be made in the King's Name, in Form herein directed * to disperse them-*

* *Vide the Form recited in the Indictment last above,*
selves,

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selves, &c. shall, to the Number of twelve or more (notwithstanding such Proclamation made, unlawfully, riotously, and tumultuously remain, or continue together, by the Space of one Hour, after such Command, they shall be adjudged Felons, without Benefit of Clergy, and suffer Death as in Case of Felony, without Benefit of Clergy.

And 'tis further enacted, That the Justice, &c. or other Person authorized by this Act, shall, among the said Rioters, or as near them as he safely can come, with a loud Voice command, or cause to be commanded, Silence to be, while Proclamation is Making, and after that shall openly with a loud Voice, make, or cause to be made Proclamation.

R O B B E R Y.

An Indictment of Felony for Robbery from the Person in the Highway.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *E. H.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, on the twenty-third Day of *September*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the * King's Highway there, in and upon one *W. T.* in the Peace of God, and our said Lord the King, then and there being, feloniously did make an Assault, and him the said *W. T.* in bodily Fear and Danger of his Life, in the Highway aforesaid, then and

* *If in a Field say, in a certain Field and open Place near the King's Highway, so throughout the Indictment.*

there,

there, feloniously did put, and one Gold Watch, of the Value of eighteen Pounds, of the Goods and Chattels of the said *W. T.* from the Person and against the Will of the said *W. T.* in the Highway aforesaid, then and there, feloniously and violently did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Recite here all the Goods and Monies taken.

Taking from the Person, where the Person is put in Fear, is Robbery.

Robbery is a felonious and violent taking away from the Person, Goods or Money of any Value whatsoever, for the smallness of the Value is no Mitigation, when the Person is put in Fear, so that if a Penny taken, or less, either in Goods or Money, the Offender is equally punishable as if he had taken one Hundred Pounds, or any greater Sum; for 'tis supposed, had the Prosecutor had more, he would have taken all.

Offender ousted of Clergy, tho' the Value be ever so small.

If A steals Goods in the County of B, and carries them in the County of C, he may be indicted in the County of C for Larceny, but can be indicted for Robbery only in the County of B.

Offender not indictable for Robbery only in the County where the Fact was committed.

If a Thief with or without Weapon draw, bid the Party deliver his Purse, and he doth it, this is a taking to make it Robbery. H. P. C.

If a Thief commands a Man to deliver his Purse, and he delivers it, and then the Thief finding little in it, delivers it back, this is a Robbery. *ibid.*

If a Thief compells a Man by Fear, to swear to fetch him a Sum of Money, which he doth accordingly, and the Thief receives it, it is Robbery. *ibid.*

If

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If a Mans Purse be fasten'd to his Girdle, and a Thief cuts the Girdle, and the Purse falls to the Ground, it is no Robbery; but if the Thief takes up the Purse and lets it fall again 'tis a Robbery, tho' he never takes it up any more. *ibid.*

All in Company are Principals, tho' one actually does it. *ibid.*

A, B, and C, assaulted D, with Intent to rob him in the Highway, but robbed him not, for that D escaped from them; A went from the
Crompt. 34. Rest in the same High-way, and robbed E out of their View; for this B, and C, were arraigned and executed, tho' assented not, because they all came with an Intent to rob.
Pudsey's Case,

If a Man seeking to escape, cast his Purse into a Bush, or let fall his Hat, and the Thief take it, it is a Robbery: H. P. C. But the Man must have been assaulted by the Thief, and put in Fear.

If one take and drive my Cattle out of my Pasture, in my Presence, this is Robbery, if
Dal. cap. 10. he make an Assault upon me and put me in Fear; but if he take away any Thing from my Person, without putting me in Fear by Assault or Violence, no Robbery; and the Indictment runs, that he took it from the
Dal. ibid. Person, violently and feloniously putting him in Fear.

Taking a Man's Goods out of his Shop before his Face, is a Robbery, as if he had taken from the Person; and it is nothing to the Purpose, tho' the Thief say, I have Right to this, or this is mine, if he hath no Colour, Hal. P. C.

By the Stat. 23 Hen. 8. c. 1. No Persons who shall be found guilty of Robbing any Person, putting them in Fear, in or near High-ways, nor their Abettors, Procurers,

Procurers, Helpers, Maintainers, or Counsellors, shall not have Benefit of Clergy, but suffer Death. Stat. 25 H. 8. c. 3. 4 & 5 Pb. & Ma. c. 4. *Accessaries excluded.*

Reward on Conviction, by the Stat. 4 & 5 W. & M. c. 8. *Any Person, who shall apprehend and prosecute any Highway-man to Conviction, shall, on producing the Certificate of the Judge, before whom the Party was convicted, receive of the Sheriff of the County where the Robbery was committed, the Reward of forty Pounds, and be intitled to the Horse, Furniture, Arms, Money, &c. of the Highwayman, unless they were stolen from other Persons, in which Case, the Property is not altered; and if any one is killed in taking a Highway-man, those who have a Right to administer, shall have forty Pounds.*

An Indictment of Felony, for a Robbery from the Person violently in a Dwelling-House.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That E. L. late of the Parish of Saint Botolph without Aldgate, in the County of Middlesex, Labourer, and H. T. late of the same, Carpenter, on the fifth Day of December in the ninth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the Dwelling-House of one John Johnson, there situate, in and upon Ann, the Wife of the said John Johnson, in the Peace of God, and our said Lord the King, then and there being, feloniously did make an Assault, and her
N n the

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the said *Ann*, in bodily Fear and Danger of her Life, in the said Dwelling-House, then and there, feloniously did put, and one Linen Pocket, of the Value of one Penny, and three Pieces of Gold Coin, of the proper Coin of this Realm, called Guineas, of the Value of three Pounds three Shillings, of the Goods, Chattels, and Monies of the said *John Johnson*, from the Person, and against the Will of the said *Ann*, in the Dwelling-House aforesaid, then and there, violently and feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Goods and Chattels of the Husband, for a Wife can have no Property.

By the Stat. 23 Hen. 8. c. 1. Robbing any Person in a Dwelling-House of the Owner, Wife, Children, or Servants put in Fear, ousts of Clergy in Case of Conviction, and the Accessary before.

Note, In this Case there is no Reward.

SACRILEGE.

An Indictment of Felony for Sacrilege; in stealing Goods out of a Church.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. N.* late of the Parish of *Kingston* upon *Thames* in the County of *Surry*, Labourer, and *L. C.* late of the same Labourer, on the fourth Day of *June*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Silver Cup, of the Value

Value of six Pounds, of the Goods and Chattels of the Parishioners of the said Parish (in the Custody of *W. T.* and *D. E.* then Church-wardens of the same Parish) in the Church of the Parish aforesaid, then and there being found, then and there feloniously and sacrilegiously did steal, take, and carry away, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

As to Sacrilege, viz. the felonious taking of any Goods out of any Parish Church, or other Church or Chapel; the Principal is ousted of Clergy by the Statutes 23 H. 8. c. 1. 25 H. 8. c. 3. and lastly by 1 E. 6. c. 12. in all Cases above-mentioned.

And by the Stat. of 23 H. 8. c. 1. the Accessary before, if found guilty by Verdict or Confession, was ousted of Clergy, but that is repealed by Stat. 1 E. 6. c. 12. as to all Accessaries.

And the Stat. of 4 & 5 Ph. & Ma. c. 4. extends not to this Case, for it takes away Clergy from Robbery of any Dwelling-House; but doth not extend to robbing of Churches and Chappels: But if robbing a Church, &c. should be attended with Burglary, and construed to be Burglary, then Clergy would be excluded from the Accessaries before, by the Stat. 3 & 4 of W. & M. c. 9.

And Lord Hale, in his History of the Pleas of the Crown, says, That certainly Clergy was not taken away in Case of Sacrilege, at Common-Law; or if it were, yet the Stat. of 25 E. 3. and the Statutes 23 H. 8. and 1 E. 6. had been needless in this Case, if Sacrilege were ousted of Clergy at Common Law, and accordingly is the Book of 26. Affiz. 19. and consequently, it is mistaken in Poulter's Case. 11 Co. Rep. 29. b.

S E R G E, &c.

An Indictment of Felony, for forcibly entering a Dwelling-House, with Intent to cut Serge in the Loom, and for cutting and destroying the same.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That *Henry Sommer*, late of the Parish of *St. Leonard, Shoredich*, in the County of *Middlesex*, Labourer, and *Anthony Whisper*, late of the same, Labourer, after the twenty-fourth Day of *June*, in the Year of Lord, One thousand seven hundred and twenty-six, to wit, on the seventh Day of *December*, in the fifth Year of the Reign of our Sovereign Lord *George*, the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling House of one *Thomas Draper*, there situate, then and there, feloniously and forcibly did break and enter into, with an Intent, feloniously and maliciously to cut and destroy a certain Quantity of Woollen Serge, in a certain Loom, used in making thereof, belonging to him the said *John Draper*, in the same Dwelling-House, then and there being, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. and the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *Henry Sommer* and *Anthony Whisper*, afterwards, to wit, on the same seventh Day of *December*, in the

the said fifth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, twenty Yards of Woollen Serge, of the Value of four Pounds, of the Goods and Chattels of *John Draper*, in a certain Loom, used in the making Woollen Serge, belonging to him the said *John Draper*, in the said Dwelling-House of him the said *John Draper*, then and there being, then and there, feloniously and maliciously did cut and destroy, (they the said *Henry Sommer* and *Anthony Whisper*, then not having, nor either of them having the Consent of the said *John Draper*, the Owner aforesaid, so to do) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 12 Geo. 1. c. 34. If any Person by Day or by Night, break into any House or Shop, or enter by Force into any House or Shop with Intent to cut or destroy any Serge, or other Woollen Goods, in the Loom, or any Tools employed in the making thereof, or shall wilfully and maliciously cut and destroy any such Serges, or Woollen Goods in the Loom, or on the Rack, or shall burn, cut, and destroy any Rack, on which any such Serges, or other Woollen Goods are hanged in order to dry, or shall wilfully and maliciously break or destroy any Tools used in the making any such Serges, or other Woollen Goods, not having the Consent of the Owner so to do, every such Offender being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Case of Felony, without Benefit of Clergy.

This Act extends to Combers and Framework Knitters.

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By the same Statute there are several other Cases made Felony, with.n Benefit of Clergy: viz. If any Person assault or abuse a Master Wool-comber or Master Weaver, or other Person concerned in the Woollen Manufactures in this Kingdom, whereby any such Master or Person shall receive any bodily Hurt, for not complying with the illegal By-laws, Ordinances, Rules, or Orders (mentioned in the said Act) or send threatening Letters, to burn, pull down, or destroy their Houses, &c. for not conforming, &c. being lawfully convicted, upon any Indictment, to be found within twelve Kalendar Months next after such Offence committed, shall be adjudged guilty of Felony, and shall be transported for seven Years, in such Manner, and under such Pains and Penalties as Felons in other Cases are by Law to be transported.

By the Stat. 5. & 16. Geo. 2. c. 27. Reciting that whereas Clothiers and others concerned in the Woollen Manufacture, are under a Necessity of letting their Cloth, and other Woollen Goods remain upon the Rack or Tenters, as also of suffering their Wool to be exposed in the Night-time, in order the better to dry, and prepare the same; whereby they are more frequently liable to be stolen by wicked and evil designing Persons, who are encouraged in their Wickedness, by the Difficulty of proving the identity of the Goods stolen; it is enacted, that in Case any Cloth or Woollen Goods remaining upon the Rack, or Tenters, or any Woollen Yarn, or Wool left out to dry shall be stolen or taken away in the Night time; it shall be lawful for any Justice of the Peace, of the same County or Place, upon Complaint made within ten Days after such Cloth, Woollen Goods, Woollen Yarn or Wool shall have been so stolen or taken away, by the Owner of such Cloth

Cloth, &c. by Warrant under his Hand and Seal to authorise any Constable &c. in the Day-time, to enter into, and search the Houses, Out-houses, Yards, Gardens, or other Places belonging to the Houses of every Person whom the Owner of such Cloth, &c. shall upon his Oath declare to such Justice he suspects to have stolen, taken away or received the same; and in Case such Constable, &c. shall find or discover any Cloth, &c. which he shall from the Information of the Person making such Oath, have Reason to suspect to be so stolen, &c. he shall forthwith apprehend, every Person in whose Custody or Possession such Cloth, &c. shall be found, and carry him before some Justice of the Peace of the same County, &c. and if the said Person suspected, apprehended, and carried before the said Justice, shall not then and there give a satisfactory Account how he acquired the Property or Possession of such Cloth, &c. or shall not within some convenient Time, to be set by the said Justice, produce the Party of whom he received the same, or some other credible Witness to depose upon Oath, such Property or Right to the Possession of the said Cloth, &c. that the said Person so suspected, and not giving such satisfactory Account, nor producing any such Witness upon Oath, to testify as aforesaid, shall be deemed and adjudged as convicted of the said Offence, of stealing or taking away the said Cloth, &c. and shall for the first Offence, forfeit treble the Value, and for the second Offence forfeit the like, and suffer six Months Imprisonment: And if such Person shall again commit the said Offence, and be thereof convicted as aforesaid, the Justice shall forthwith issue his Warrant to commit the said Offender to the common Gaol as aforesaid, there to remain till

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next Assizes or great Session, where the said Offence shall be tried for the said Offence, and in Case such Offender shall by producing the Party of whom he acquired the Property and Possession of such Cloth, &c. or otherwise prove to the Satisfaction of the Jury, shall be lawfully obtained, the Property or Possession of the same, he shall be judged to be guilty of Felony and suffer Transportation for the Space of seven Years, and shall be liable to the same Punishment and to the like Methods of Prosecution, Trial, and Conviction for returning from such Transportation, as other Felons transported are liable to, by virtue of the Laws now in force,

Provided that this Act shall not extend to alter or repeal any Law now in Force, for the Punishment of any Person stealing or receiving such Cloth, &c. except in such Cases where the Proof is laid upon the Offenders as aforesaid.

S E R V A N T S.

*An Indictment of Felony against a
Servant, for embezzling his Master's
Goods, delivered to him to keep for
his Master's Use.*

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *A. L.* late of the Parish of St. George, Hanover-square, in the County of *Middlesex*, Labourer, on the eighth Day of November, in the second Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. then being a Servant to one *George Vaughan*, and not an Apprentice, or a Person within the Age of eighteen Years,

Years, he the said *George Vaughan* did, then and there, upon Confidence and Trust deliver unto his said Servant, one Silver Tankard, of the Value of five Pounds, of the Goods and Chattels of him the said *George Vaughan*, safely to keep the same Goods and Chattels to the Use of him the said *George Vaughan*; and that he the said *A. L.* afterward, to wit, on the twentieth Day of the same Month of *November*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, did withdraw himself from the said *George Vaughan*, his said Master, and feloniously did go away with the same Silver Tankard above-mentioned, to the Intent to steal the same, and defraud the said *George Vaughan*, his said Master thereof, contrary to the Trust and confidence to him the said *A. L.* put by the said *George Vaughan*, his said Master, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

If the Servant does not withdraw himself, but continues in his Service, then say, without Assent or Commandment of the said George Vaughan, his said Master, he the said A. L. feloniously did embezel the same Silver Tankard, and convert the same to his own Use, with Intent, &c. Go on and conclude as above.

By Stat. 21. H. 8. c. 7. Servants having Caskets and other Jewels, Money, Goods, and Chattels, delivered to them by their Masters or Mistresses, safely to be kept to the Use of their said Masters and Mistresses, and after such Delivery, withdraw themselves from their said Masters or Mistresses, and go away with the said Caskets, &c, or any Part thereof, to the Intent to steal the same, and defraud his or their said Masters or Mistresses thereof, contrary

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to the Trust and Confidence to him or them put, by his or their said Masters or Mistresses, or else being in the Service of his said Masters or Mistresses, without Assent or Commandment of his Master or Mistress, he embezel the same Caskets, &c. or any Part thereof, or otherwise convert the same to his own Use, with like Purpose to steal it. That if the said Caskets, &c. that any such Servant shall so go away with, or which he shall embezel with Purpose to steal it, as is aforesaid, be of the value of forty Shillings, or above, that then the same false, fraudulent, and untrue Act and Demeanor, should be adjudged Felony; and he and they, so offending, to be punished, as other Felons be punished for Felonies committed by the Course of the Common Law.

Clergy taken away by Stat. 27 H. 8. c. 17. both the above Statutes made perpetual by Stat. 28 H. 8. c. 2. afterward repealed by 1 Ed. 6. c. 12. and 1 M. 1. which said Statute of Stat. 21 H. 8. c. 7. is revived, and again made perpetual by Stat. 5 Eliz. c. 10. No time limited to prosecute.

This Act not to extend to Apprentices, nor any Person within the Age of eighteen Years, who shall embezel Goods delivered them to keep to the Use of their Master, &c.

Note, If a Servant, and Apprentice, or any Person within the Age of eighteen Years, shall embezel their Masters Goods, which were not delivered to them, nor committed to their Charge, altho' they be under the Value of forty Shillings, and of the Value of no more than twelve-pence, this is Felony.

S H E E P.

An Indictment of Felony, for killing Sheep, with an Intent to steal Part of their Carcasses.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Twickenham*, in the County of *Middlesex*, Labourer, on the twelfth Day of *February*, in the twentieth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, five Sheep of the Value of three Pounds two Shillings and Six-pence, of the Goods and Chattels of *C. D.* then and there being found, wilfully and feloniously did kill with a felonious Intent to steal Part of the Carcasses, that is to say, the inward Fat of the said five Sheep, against the Peace of our said Lord the King his Crown and Dignity. And against the Form of the Statute in such Case made and provided.

By the Stat. 14 Geo. 2. c. 6 Reciting, That whereas divers evil-disposed Persons had of late more generally and frequently than was ever known before, made it their Practices secretly in the Night-time to drive away, and steal great Numbers of Sheep, and likewise secretly in the Night-time to kill great Numbers of Sheep, and to strip off their Skins, and then steal the Carcass of the Sheep so killed, leaving their Skins behind to prevent Discoveries; and also in like Manner to kill great Numbers of Sheep,
and

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and then cut open the Sheep so killed, and take out and steal their inward Fat, leaving their Carcasses behind to prevent being Discovered; it is enacted, That if any Person or Persons, shall feloniously drive away, or in any other manner feloniously steal one or more Sheep, or other Cattle of any other Person or Persons whatsoever, or shall wilfully Kill one or more Sheep or other Cattle of any other Person or Persons whatsoever, with a felonious Intent to Steal the whole Carcase or Carcases, or any Part or Parts of the Carcase or Carcases, of any one or more Sheep or other Cattle that shall be so killed, or shall assist or aid any Person or Persons to commit any such Offence or Offences; that then the Person or Persons guilty of any such Offence, being thereof convicted in due Form of Law, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

And that all and every Person and Persons, who shall apprehend and prosecute to Conviction, any Offender or Offenders guilty of any of the Offences herein before mentioned, shall have and receive, as a Reward, upon every such Conviction, the Sum of ten Pounds to be paid within one Month after such respective Conviction, by the Sheriff or Sheriffs of the County where such Offence or Offences shall be committed and done (without any Deduction whatsoever) to the Person or Persons so apprehending and prosecuting such Offender or Offenders, he or they tendering a Certificate to the Sheriff or Sheriffs, signed by the Judge or Judges, before whom any such Offender shall be committed, certifying such Conviction, and where the Offence was committed, and that such Offender or Offenders, was or were apprehended and prosecuted by the Person or Persons claiming the said Reward; which Certificate the said Judge or Judges are hereby authorised and required to sign accordingly,
before

before the End of the same Session or Assises, at which such respective Conviction shall happen to be; and in such Certificate shall direct and appoint (in Case more than one Person shall claim a Right to the said Reward) what Share and Proportion thereof shall be paid to each Claimant, and if it shall happen that any such Sherifff or Sherifffs shall die or be removed before the Expiration of one Month after such Conviction, and demand made of the said Reward (the same not being paid as aforesaid) that then the next succeeding Sherifff or Sherifffs, shall pay the same within one Month after demanded, and Certificate brought as aforesaid; and if Default of Payment of the said Sum or Sums of Money shall happen to be made by any Sherifff or Sherifffs, such Sherifff or Sherifffs so making Default, shall forfeit to the Person or Persons, to whom such Money is due, as aforesaid, double the Sum or Sums of Money he or they ought to have paid to be recovered by him or them, or his or their Executors, or Administrators in any of his Majesty's Courts of Record at Westminster, Action of Debt, &c. with treble Cost of Suit by him or them expended in the Recovery of the same.

And by the Stat. 15 & 16. Geo. 2. c. 34. It is declared and enacted, That the said Stat. 14 Geo. 2. c. 6. was meant and intended, and shall be construed, deemed, and taken to extend to any Bull, Cow, Ox, Steer, Bullock, Heifer, Calf, and Lamb, as well as Sheep, and to no other Cattle whatsoever.

S H I P S.

*An Indictment of Felony, for wilfully
burning and destroying a Ship.*

Admiralty of **T**HE Jurors of our Lord the
England. King upon their Oath present,
That *Edward Johnson*, late of *London*, Mariner,
and *Nicholas Wilson*, late of *London*, Mariner, after
the twenty-fourth Day of *June*, in the Year of our
Lord One thousand seven hundred and eighteen,
to wit, on the seventh Day of *December*, in
the tenth Year of the Reign of our Sovereign
Lord *George the Second*, now King of *Great
Britain*, &c. with Force and Arms, * upon the
high Sea, within the Jurisdiction of the Admi-
ralty of *England*, about half a League distant from
Leghorn in *Italy*, in Parts beyond the Seas, then
being Mariners, belonging to a certain Merchant
Ship, called the *Dolphin*, and then and there being
in and on board the said Ship, did then and there
wilfully and feloniously burn and destroy the said
Ship, and direct and procure the said Ship, to be
burnt and destroyed, to the great Prejudice of
divers Persons, Merchants, (to the Jurors afore-
said unknown, that had laden Goods thereon)
against the Form of the Statute in such Case made
and provided, and against the Peace of our said
Lord the King his Crown and Dignity.

Note, If the Offence is committed on the High Sea, you say,
as in the Precedent; but if the Offence be committed in any
County within this Realm, then you only mention the Place
and County where Committed.

By

By the Stat. 12 Ann. Stat. 2. c. 18. If any Person or Persons shall make or be assisting in the making any Hole in the Bottom, Side, or any other Part of any Ship, or Vessel in Distress, or shall steal any Pump belonging to any Ship, or Vessel so in Distress, or shall be aiding or abetting in the stealing such Pump, or shall do any Thing tending to the immediate Loss or Destruction of such Ship, or Vessel, such Persons are made guilty of Felony, without Benefit of Clergy.

And by the Stat. 4 Geo. 1 c. 12. If any Owner, Captain, Master, Mariner, or other Officer belonging to any Ship, after the 24th Day of June, in the Year of our Lord One thousand seven hundred and eighteen, wilfully cast away, burn, or otherwise destroy the Ship of which he is Owner, or unto which he belongeth, or in any Manner direct or procure the same to be done, to the Prejudice of any Person or Persons, that shall under-write any Policy, or Policies of Assurance, or if any Merchant or Merchants that shall load Goods thereon, he shall suffer Death.

Note, by this Stat. the Stat. 12. Ann. Stat. 2. c. 18. is made perpetual.

Some Doubts having arose touching the Nature of the Offence provided against by the two last mentioned Acts, and the Trial and Punishment to be had and inflicted for the same. By the Stat. 11 Geo. 1. c. 29. 'tis therefore enacted, That if any owner of, or Captain, Master, Officer, or Mariner, belonging to any Ship or Vessel, shall, after the twenty-fourth Day of June, One thousand seven hundred and twenty-five, wilfully cast away, burn, or otherwise destroy the Ship, or Vessel, of which he is Owner, or to which he belongeth, or in any wise direct or procure the same to be done, with Intent, or Design to prejudice any Person or Persons, that shall under-write any Policy or Policies of Insurance there-

or.

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on, or any Merchant or Merchants, that shall load Goods thereon, or of any Owner or Owners of such Ship, or Vessel, the Person or Persons offending therein, being thereof lawfully convicted, shall be deemed and adjudged a Felon or Felons, and shall suffer as in Cases of Felony, without Benefit of Clergy.

If any of such Offences be committed within the Body of any County within this Realm, the offenders shall be tried in such County, as in other Cases of Felonies are tried, and if the Offences shall be committed upon the high Seas, the same shall be tried in such Manner as by the Stat. 28 Hen. 8. (intituled, *For Pirates*) is directed and appointed for trying Felonies done upon the high Seas.

*How Offences
are to be tried,
&c.*

S H O P, &c.

An Indictment of Felony, for stealing above Five Shillings out of a Shop, Ware-house, Coach-house, or Stable Mutatis Mutandis.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That That S. D. late of the Parish of St. Clement Danes, in the County of *Middlesex*, Labourer, on the twentieth Day of *August*, in the tenth Year of the Reign of our Sovereign Lord George the Second, now King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, one Cloth Coat, of the Value of

of fifteen Shillings, and one Cloath Waist-Coat, of the Value of ten Shillings, of the Goods and Chattels of one *Isaac Bickerstaff*, in the Shop of him the said *Isaac Bickerstaff*, then and there being found, then and there privately and feloniously did steal, take, and carry, away, against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 10 & 11 W. 3. c. 23. If any Person steal out of a Shop, Ware-house, Coach-House, or Stable, any Goods privately and feloniously, of the Value of five Shillings, or more, though such Shop, &c. be not broken open, &c. or shall assist, hire, or command any Person to commit such Offence, &c. he shall not have the Benefit of Clergy.

Note, The Goods stolen must be the Property of the owner of the Shop, &c. or else the Offender does not lose his Clergy; for this Act was made as a Remedy for the Owners of the Shops to preserve their Goods.

By the same Act, 'tis enacted, That where a Person shall apprehend a Felon for stealing any Thing to the Value of five Shillings, out of a Shop, Coach-house, Ware-house or Stable, either in the Day-time or in the Night, and the Offender shall be convicted thereof, such Apprehender shall have a Certificate under the Hand of the Judge, before whom such Conviction was, setting forth the same, and within what Parish the Felony was committed, and the Person so taking or discovering the Felon; and if there are many Persons concerned, the Certificate is to be divided into Shares. This Certificate may be assigned once and no more: But Persons having made Use of it, shall not then assign over the said Certificate.

Apprehender to have a Certificate, to exempt him from Parish and Ward Offices, upon Conviction.

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and the original Proprietor, or his Assignee, shall be discharged of all Parish and Ward Offices, wherein such Felony shall be committed. The Certificate must be enrolled by the Clerk of the Peace of that County in which it shall be granted, for one Shilling Reward. And if a Person happen to be killed in taking a Felon, he that hath a Right to the Personal Estate, shall have the Certificate.

The Word Privately being in the Act of Parliament, (if it should be omitted in the Indictment) the Felon cannot be convicted for a capital Offence, but may have the Benefit of Clergy.

If the Offence be for stealing out of a Coach-house, Ware-house or Stable, then you say in the Indictment, out of the Coach-house, or Stable, or Ware-house, privately and feloniously, as the Case is.

Note, If the Jury don't find the Party guilty of the Indictment in general, but guilty to the Value of four Shillings and Sixpence, or any thing under five Shillings; then the Party has the Benefit of his Clergy.

S M U G L E R S.

An Indictment of Felony in resisting Custom-House Officers, and unlawfully and feloniously assembling with others, in Order to be aiding and assisting in the Running and carrying away uncustomed Goods.

Sussex. **T**HE Jurors for our Lord the King upon their Oath present, that A. R. late, &c. and divers other Malefactors and Disturbers

sturbors of the Peace of our said present Sovereign Lord the King, to the Number of thirty Persons and upwards, (whose Names are as yet unknown to the said Jurors) since the twenty-fourth Day of *July*, which was in the Year One thousand seven hundred and forty-six, to wit, upon the fourteenth Day of *September*, in the twentieth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish of *E.* in the said County of *S.* being armed with Fire Arms, and other offensive Weapons, did unlawfully, and feloniously assemble and gather themselves together in order to be aiding and assisting in the Running and carrying away uncustomed Goods, and Goods liable to pay Duties which had never been paid or secured, and being then and there so assembled, and gathered together as aforesaid, and being also then and there so armed as aforesaid, in and upon *M. T.*, *H. T.*, *S. T.*, *S. J.*, and *F. T.*, being then and there Officers of the Customs, of our said present Sovereign Lord the King, and being also then and there, in the Peace of God, and our said present Sovereign Lord the King, and being also then and there in the due Execution of their said several and respective Offices, in the due seizing and securing several Parcels of uncustomed Goods, and Goods liable to pay Duties, which had never been paid or secured, he the said *A. R.* and the said divers other Malefactors, and Disturbors of the Peace of our said present Sovereign Lord the King, (whose Names are as yet unknown to the said Jurors as aforesaid) did then and there, with Force and Arms, unlawfully, riotously, routously forcibly and feloniously make an assault, and affray, and also them the said *M. T.*, *H. T.*, *S. T.*, *S. J.* and *F. T.* being then and there Officers of the Customs of

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our said present Sovereign Lord the King, as
aforesaid, and being also then and there in the due
Execution of their said several and respective Offi-
ces as aforesaid, he the said *A. R.* and the said
divers other Malefactors and Disturbers of the
Peace of our said present Sovereign Lord the
King, (whose Names are as yet unknown to the
said Jurors as aforesaid) being then and there so
assembled and gathered together as aforesaid, and
being also then and there so armed as aforesaid, did
then and there with Force and Arms, unlawfully,
riotously, routously, forcibly, and feloniously hin-
der, obstruct, oppose and resist, in Contempt of our
said present Sovereign Lord the King, and his
Laws, to the evil and pernicious Example of
others, &c. and against the Peace of our present
Sovereign Lord the King, his Crown and Dig-
nity, and also against the Form of the Statute in
such Case made and provided. and the Jurors
aforesaid, upon their Oath aforesaid, do further
present, That the said *A. R.* and divers other
Malefactors, and Disturbers of the Peace of our
said present Sovereign Lord the King, to the
Number of thirty and upwards, (whose Names
are as yet unknown to the said Jurors) afterwards,
that is to say, since the said twenty-fourth Day
of *July*, which was in the said Year of our Lord
One thousand seven hundred and forty-six, to wit,
upon the said fourteenth Day of *September*, in the
twentieth Year aforesaid, with Force and Arms,
at the Parish of *E.* aforesaid, in the County of *S.*
aforesaid, being armed with Fire-Arms, and other
offensive Weapons, did unlawfully, riotously,
routously, and feloniously assemble, and gather
themselves together, in order to be aiding and
assisting in the running and carrying away un-
customed Goods, and Goods being liable to
pay

pay Duties, which had not been paid or secured, in contempt of our said present Sovereign Lord the King, and his Laws, to the evil and pernicious Example of others, &c. and against the Peace of our present Sovereign Lord the King, his Crown and Dignity, and also against the Statute in such Case made and provided, and the Jurors aforesaid upon their Oath aforesaid, do further present, That the said *A. R.* afterwards, to wit, upon the fourteenth Day of *September* in the twentieth Year aforesaid, with Force and Arms, at the Parish of *E.* aforesaid, in the County of *S.* aforesaid, them the said *M. T.*, *H. T.*, *S. T.*, *S. J.*, and *F. T.* being then and there Officers of the Customs of our said present Sovereign Lord the King, and being also then and there in the Peace of God, and of our present Sovereign Lord the King, and being also then and there in the due Execution of their said several and respective Offices in the due seizing and securing several Parcels of uncustomed Goods, and Goods being liable to pay Duties, which had not been paid or secured, did then and there with Force and Arms, unlawfully, forcibly and feloniously hinder, obstruct, assault, oppose and resist, in Contempt of our present Sovereign Lord the King, and his Laws, to the evil and pernicious Example of others, &c. and against the Peace of our present Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

By the Stat. 19 Geo. 2. c. 34. It is enacted, That if any Persons, to the Number of three, or more, armed with Fire-Arms, or other offensive Weapons, shall be assembled, in order to be aiding and assisting in the illegal Exportation of Wool, or

O o 3 other

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other Goods prohibited to be exported, or the carrying of Wool, or other such Goods, in order to such Exportation, or in the running, landing, or carrying away prohibited or uncustomed Goods, or Goods liable to pay any Duties, which have not been paid or secured; or in the illegal relanding of any Goods whatsoever, which have been shipped or exported upon Debenture or certificate; or in rescuing or taking away the same, after Seizure, from any Officer or Officers of the Customs or Excise, of his Majesty's Revenue, or other Person or Persons employed by him or them, or assisting him or them, or from the Place where they shall be lodged by him or them; or in rescuing any Person, who shall be apprehended for any of the Offences made Felony, by this or any other Act relating to the Revenues of Customs or Excise; or in preventing the apprehending any Person, who shall be guilty of any such Offence; or in Case any Persons to the Number of three, or more, so armed as aforesaid, shall be so aiding or assisting, or if any Person shall have his Face blacked, or wear any Vizard, Mask, or other Disguise, when passing with such Goods, or shall forcibly hinder, obstruct, assault, oppose or resist any of the Officers of the Customs or Excise, or other his Majesty's Revenue, in the seizing or securing any such Goods; or, if any Person or Persons shall Maim or dangerously wound any Officer of the Customs or Excise, or any other his Majesty's Revenue, in his attempting to go on board any Ship or Vessel within the Limits of any of the Ports of this Kingdom, or shoot at, Maim, or dangerously wound him, when on board such Ship or Vessel, and in the due execution of his Office or Duty, then every Person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

If

If any Person shall be charged with being guilty of any of the Offences aforesaid, before one of his Majesty's Justices of the Peace, or one of his Justices of the Court of Kings Bench, by Information of one or more credible Person or Persons, upon Oath, by him or them to be subscribed, such Justice shall forthwith certify under his Hand and Seal, and return such Information to one of the principal Secretaries of State of his Majesty, his Heirs or Successors, who is to lay the same, as soon as conveniently may be, before his Majesty his &c. in his or their Privy-Council; whereupon it shall be lawful for his Majesty, his &c. to make his or their Order, in his or their Privy-Council, thereby requiring and commanding such Offender or Offenders, to surrender him or themselves within the Space of forty Days after the first Publication thereof, in the London Gazette, to the Lord Chief Justice, or any other his Majesty's Justices of the Court of Kings Bench, or to any of his Majesty's Justices of the Peace, who upon such Offender or Offenders surrendering him or themselves, to commit him or them, without Bail or Mainprize, to the County Gaol, or to the Gaol or Prison of the Place where he or they shall so surrender, to the End that he or they may be forthcoming, to answer the Offence or Offences wherewith he or they shall stand charged according to due Course of Law; which Orders the Clerks of his Majesty's Privy-Council, shall cause to be forthwith printed and published in the two successive London Gazettes, and to be forthwith transmitted to the Sheriff of the County where the Offence shall be committed, who shall within fourteen Days after the receipt thereof, cause the same to be proclaimed between the Hours of ten in the Morning, and two in the Afternoon, in the Market-Place, upon the respective Market Days of two Market-Towns, in the same County, near to

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the Place where such Offence shall have been committed, and a true Copy of such Order shall be affixed, upon some publick Place in such Market-Towns: And in case such Offender or Offenders shall not surrender him or themselves, pursuant to such Order of his Majesty, his Heirs or Successors, he or they, so neglecting or refusing to surrender, him or themselves as aforesaid, or escaping after such Surrender, shall, from the Day appointed for his or their Surrender as aforesaid, be adjudged, deemed and taken, to be convicted and attainted of Felony, and shall suffer Pains of Death, as in Cases of a Person convicted and attainted by Verdict and Judgment of Felony, without Benefit of Clergy; and it shall be lawful for the Court of King's Bench, or the Justices of Oyer and Terminer, or General Gaol Delivery for the County or Place where such Person shall be, to award Execution against such Offender and Offenders, in such Manner as if he or they had been convicted and attainted in the said Court of King's Bench, or before such Justice of Oyer and Terminer, or General Gaol Delivery respectively.

And that every Person, who shall after the Time appointed as aforesaid, for the surrender of any Person so charged, upon Oath with any of the Offences aforesaid, shall be expired, harbour receive, conceal, aid, abet, or succour such Person, knowing him to have been so charged as aforesaid, and to have been required to surrender himself, by such Order as aforesaid, and not to have surrendered pursuant to such Order or Orders, being presented for the same, within one Year after the Offence committed, and lawfully convicted thereof, shall be guilty of Felony; and shall be transported as a Felon to some of the Plantations in America, for seven Years, and if he shall return before the Expiration

piration of the said Term, he shall suffer as a Felon, without benefit of Clergy.

If an Offender be taken and secured before the expiration of the Time limited by the Order in Council, all Proceedings on the Order shall cease, and the Offender shall be tried by due Course of Law.

And for the better and more impartial Trial of any Indictment or Information, which shall be found, commenced or prosecuted, for any of the Offences made Felony, by this or any other Act relating to the Revenues of Customs or Excise, it is enacted, That every such Offence may be inquired of, examined, tried, and determined in any County in England, in such manner and Form as if the Fact had been therein committed, provided that no Attainder for any of the Offences, made Felony by virtue of this Act, shall make or work any corruption of Blood, loss of Dower, or forfeiture of Lands or Tenements.

If any Officers shall be killed, wounded or beat in endeavouring to seize any Goods, or to apprehend any Offender, or any Goods shall be rescued, this Act appoints a Satisfaction to be made by the Hundred.

And also gives a Reward of five hundred Pounds for apprehending, and fifty Pounds extraordinary to any Person wounded in endeavouring to apprehend an offender, and one hundred Pound to the Executors of any Person killed.

An Offender against whom no Order in Council has issued, discovering and apprehending any other Offender against whom such Order shall be made, he shall be acquitted of his own Offence, and all other like Offences for which no Prosecution shall have been

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been commenced, and have his share of the Reward.

If a Offender, against whom an Order in Council shall have been made, shall discover and cause two or more of his Accomplises to be apprehended, he shall have fifty Pound for each Offender, as a Reward, and be acquitted. Ut Supra.

SOLDIERS.

An Indictment of Felony, for hiring and retaining a Person to serve the French King as a Soldier.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Peter Johnson*, late of the Parish of *St. John Wapping*, in the County of *Middlesex*, Labourer, being a Person of a wicked and malicious Mind, and Disposition, and contriving and intending unlawfully to seduce, draw and intice one *James Wilson*, a Subject of the Crown of *Great Britain*, from his the said *James Wilson's* Allegiance and Obedience, which he the said *James Wilson*, as a natural born Subject of the said Crown of *Great Britain*, owed to our said Lord the King that now is, as his supreme, true and natural Lord, and to enlist and enter himself, the said *James Wilson*, as a Soldier in the Service of a foreign Prince, to wit, *Lewis the French King*, he the said *Peter Johnson*, on the seventeenth Day of *January*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, did wilfully, maliciously and

and feloniously, hire and retain the said *James Wilson*, then being a Subject of our said Lord the King, by promising and assuring him the said *James Wilson*, that if he (meaning him the said *James Wilson*) would go abroad, and enter into the Service of the *French King*, he (again meaning him the said *James Wilson*) should be made a Serjeant, and should have the Liberty of returning to *England* when he (again meaning him the said *James Wilson*) should think fit; and did also then and there, unlawfully, corruptly and feloniously treat and entertain the said *James Wilson* with Meat and Drink at the Costs and Charges of him the said *Peter Johnson*, and did also then and there give and deliver to the said *James Wilson* the Sum of five Shillings, in Monies numbered, of lawful Money of *Great Britain*, with an Intent to cause the said *James Wilson* to enter himself to serve a foreign Prince, to wit, *Lewis the French King*, as a Soldier, (without Leave or Licence of our said Lord the King first had and obtained, for inlisting any of the Subjects of our said Lord the King, to serve any foreign Prince, State or Potentate as Soldiers, under the Sign Manual of our said Lord the King) against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Peter Johnson*, in further Prosecution of his wicked and malicious Contrivance and Intention aforesaid, afterwards, to wit, on the said seventeenth Day of *January*, in the said tenth Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, wilfully, maliciously and feloniously did cause and procure the said *James Wilson*,

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Wilson, being a Subject of our said Lord the King, to embark on board a certain Ship then and there lying and being on the River *Thames*, with an Intent to cause the said *James Wilson* to go beyond the Seas, in Order to be inlisted to serve a foreign Prince, to wit, *Lewis* the French King, as a Soldier (withot Leave or Licence of our said Lord the King first had and obtained, for inlisting any of the Subjects of our said Lord the King to serve any foreign Prince, State or Potentate as Soldiers, under the Sign Manual of our said Lord the King) against the Form of the Statute in such Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 2. c. 30. 'tis enacted, *That if any Subject of the Crown of Great Britain, from and after the twenty-fourth Day of June (then) next, shall within the Kingdom of Great Britain, or Ireland, or from and after the twenty-ninth Day of September (then) next, without the same, enlist, or enter himself, or if any Person shall procure any Subject of his Majesty, his Heirs, or Successors to enlist or enter himself, or hire or retain any Person, being a Subject of his Majesty, his Heirs, or Successors with an Intent to cause such Person to enlist, or inter himself, or procure any Person, being a Subject of his Majesty, his Heirs, or Successors, to go beyond the Seas, or embark with an Intent, and in order to be inlisted, to serve any foreign Prince, State, or Potentate, as a Soldier, without Leave or Licence of his Majesty, his Heirs, or Successors, first had and obtained, for inlisting any of the Subjects of his Majesty, his Heirs, or Successors, to serve any such foreign Prince, State, or Potentate, as Soldiers, under the Sign Manual of his Majesty, his Heirs or Successors, every*
such

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such Person so offending, being thereof lawfully convicted, shall be taken, deemed, and adjudged to be guilty of Felony, and shall suffer Death as in Cases of Felony, without benefit of Clergy.

All Offences committed against this Act, out of this Realm, may be alledged to be committed, and may be laid, and inquired of, and tried in any County in England.

Persons enlisted, inveigled or inticed to go beyond Seas, &c. in any foreign Service as non Commission'd Officers, or private Soldiers, without his Majesty's Licence, &c. shall, within fourteen Days after such enlisting, or Agreement to go beyond Seas, voluntarily discover upon Oath, before any of his Majesty's Justices of the Peace, or other civil Magistrate the Person or Persons by whom he was so enlisted, &c. as aforesaid, so as he or they may be apprehended and convicted of the said Offence, such Person or Persons so discovering as aforesaid, shall be indemnified from the Penalties of this Act, and all other Penalties whatsoever, on Account of the said Offence.

A perpetual Law, no Time limited to prosecute.

STOLEN GOODS.

An Indictment of Felony for receiving Money to help a Person to stolen Goods; and not apprehending the Felon.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the first Day of January, in the tenth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. at the

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the Parish of *St Giles in the Fields*, in the County of *Middlesex*, one Gold Watch, with a Gold Chain of the Value of seventeen Pounds, of the Goods and Chattels of one *John Lancake*, (by a certain Felon, to the Jurors aforesaid as yet unknown) from the Person of him the said *John Lancake*, privily, secretly, and without the Knowledge of him the said *John Lancake*, with Force and Arms, was then and there feloniously stolen, taken and carried away. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That *Roger Dimmock*, late of the Parish of *St. Paul Covent-Garden*, in the County aforesaid, Labourer, having a secret Acquaintance with the said Felon, to the Jurors aforesaid as yet unknown, afterwards, to wit, on the sixth Day of the same Month of *January*, in the Year aforesaid, at the Parish of *St. Paul, Covent-Garden*, in the County aforesaid, (notwithstanding he the said *Roger Dimmock* did not apprehend, and cause to be apprehended the said Felon, who stole the said Watch and Chain as aforesaid, and cause the said Felon to be brought to his Trial for the same, and give Evidence against him) he the said *Robert Dimmock*, with Force and Arms, under Pretence, and upon Account of helping the said *John Lancake* to his said Watch and Chain, so feloniously stolen as aforesaid, did then and there, wilfully, unlawfully and feloniously take, of, and from the said *John Lancake*, the Sum of seven Pounds of lawful Money of *Great Britain*, and did then and there deliver the same Watch and Chain, so as aforesaid feloniously stolen, to him the said *John Lancake*, against the Form of the Statute in such Case made and provided, to the great Damage of him the said *John Lancake*, to the evil Example of all others in the like Case offending

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offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 4 Geo. 1 c. 11. 'tis enacted, That where-ever any Person taketh Money or Reward, directly or indirectly, under Pretence or upon Account of helping any Person or Persons to any stolen Goods or Chattels, every such Person, so taking Money or Reward as aforesaid (unless such Person doth apprehend, or cause to be apprehended such Felon who stole the same, and cause such Felon to be brought to his Trial for the same, and give Evidence against him) shall be guilty of Felony, and suffer the Pains and Penalty of Felony, according to the Nature of the Felony committed in stealing such Goods, and in such and the same Manner, as if such Offender had himself stolen such Goods and Chattels, in Manner and with such Circumstances as the same were stolen

Note, the notorious Jonathan Wild was, on the above-recited Clause, try'd, convicted and executed, 10 Geo. 1.

T R E A S O N.

An Indictment of High Treason for Coining Shillings.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Edward Ward*, late of the Parish of *St. Margaret Westminster*, in the County of *Middlesex*, Labourer, and *Moses Williams*, late of the same Labourer, not having the Fear of God before their Eyes, nor weighing the Duty of their Allegiance, but
being

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being moved and seduced by the Instigation of the Devil, and contriving and intending our said Lord the King, and all his People, crattily, falsly, deceitfully, feloniously, and traiterously to deceive and defraud, on the second Day of *June*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, twenty Pieces of false, feigned and counterfeit Money and Coin, of Pewter, Lead, Tin, and other mixt Metals, to the Likeness and Similitude of the Good, legal and current Money, and silver Coin of our said Lord the King of this Realm, called Shillings, then and there falsly, deceitfully, feloniously, and traiterously did forge, counterfeit, and coin, against the Duty of their Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute, in that Case made and provided.

*It is declared by the Statute of 25 Ed. 3. Stat. 5. cap. 9. That if a Man counterfeit the King's Great Privy Seal, or his Money of England, and if a Man bring false Money into this Realm, counterfeit to the Money of England, as the Money called * Lushburgh, or other like Money of England, knowing the Money to be false, to Merchandize, or make Payment in Deceit of our said Lord the King and his People, he ought to be judged guilty of Treason.*

* Lushburgh was a base Coin, used in the Days of King Ed. 3. coined beyond Sea to the Likeness of English Money, and brought in, to deceive the King and his Subjects.

By

By the Stat. 1 Mar. Stat. 2. cap. 6. If any Person or Persons falsly forge and counterfeit any such Kind of Coin of Gold or Silver, as is not the proper Coin of this Realm, and is and shall be current within this Realm by the Consent of the Queen her Heirs, or Successors; or if any Person or Persons do falsly forge or counterfeit the Queen's Sign Manual, Privy Signet, or Privy Seal; that then every such Offence, shall be deemed, and judged High-Treason, and the Offenders therein, their Counsellors, Procurors, Aiders, and Abetors, being convicted, according to the Laws, of any of the said Offences, shall be likewise deemed and judged Traitors against the Queen, her Heirs and Successors, and the Realm, and shall suffer and have such Pains of Death, Forfeiture of Lands, Goods and Chattels, and lose the Privilege of all * Sanctuary, as in Cases of High-Treason is used and ordained.

By the Stat. 1 and 2 Ph. and M. cap. 11. it is enacted, That if any Person or Persons, shall bring, from Parts beyond the Sea, into this Realm, or into any of the Dominions of the same, any such false and counterfeit Coin of Money, being current within this Realm, knowing the same Coin or Money to be false and counterfeit, to the Intent to utter, and making Payment with the same within this Realm, or any the Dominions of the same, by Merchandising

* Sanctuary is a privileged Place by the Prince, for the Safeguard of Mens Lives, who are Offenders, being founded on the Law of Mercy, and upon the great Reverence, Honour and Devotion, which the Prince bears to the Place whereunto he grants such Privilege; which was heretofore so great, that the Princes have granted the same in Cases of Treason committed against themselves, Murder, Rape, or other Crime whatsoever. See Stamf. Pl. of the Crown, l. 2. c. 38. Cow. Interp. and Les Termes de la Ley.

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or otherwise; that all and every such Persons so offending as aforesaid, their Counsellors, Procurers, Aiders, or Abeters, in that Behalf, shall be deemed and adjudged to be Offenders in High-Treason, and shall suffer, after lawful Conviction or Attainder thereof, such Pains of Death, Loss and Forfeiture of Land, Goods, and Chattels, as other Offenders shall do, in Cases of High-Treason.

* And further, That all and every Person or Persons, that shall at any Time be accused or impeached of any Offences, contained and provided for in this Statute, or of any other Offence or Offences, concerning the impairing, counterfeiting, or forging of any Coin, current within this Realm, shall and may be indicted, arraigned, tried, convicted or attained, by such like Evidence, and in such Manner and Form, as hath been used and accustomed within this Realm, at any Time before the first Year of the Reign of our late Sovereign Lord King Edward the Sixth, any Statute, Custom, Law, or Usage to the contrary thereof, in any wise notwithstanding.

An Indictment of High Treason for having Goods for Coining in their Custody.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Edward Williams*, late of the Parish of *St. Giles* in the *Fields*, in the Country of *Middlesex*, Labourer, and *John Wilson*, late of the same, La-

* Note, To clip, wash, round, or file, is Treason, Stat. 3 H. 5. c. 6. 5 Eliz. c. 1. or impair the Coin, Stat. 25 Ed. 3. Stat. 5. c. 13. 18 El. c. 1. Treason.

bourer, not being Persons employed, nor any one of them a Person employed in or for the Mint or Mints of our said Lord the King, in the Tower of *London*, or elsewhere, and for the Use and Service of the said Mints only, not being Persons lawfully authorized, nor any one of them lawfully authorized by the Lord High Treasurer of *Great Britain*, or Lords Commissioners of the Treasury of our said Lord the King, and not having the Fear of God before their Eyes, but being moved and seduced by the Instigation of the Devil, after the fifteenth Day of *May*, in the Year of our Lord, One thousand six hundred ninety-seven, to wit, the first Day of *May*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Pair of Moulds made of Chalk, upon which, then and there, were made and impressed, the Figure, Resemblance and Similitude of the Sides of the lawful Silver Coin of this Kingdom, called Sixpences, (each of which said Moulds would then make and impress the Figure, Resemblance, and Similitude of one of the Sides of the lawful Silver Coin of this Kingdom, called Sixpences) without any lawful Authority or sufficient Excuse for that Purpose, knowingly and traiterously had in the Custody and Possession of them the said *Edward Williams* and *John Wilson*, in the Dwelling-House of *Richard Whitehead*, situate at the Parish aforesaid, in the County of *Middlesex* aforesaid, against the Duty of their Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

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For hiding and concealing Coining-Tools.

As above, down to knowingly and traiterously, in the Dwelling-House of Richard Whitehead, situate at the Parish aforesaid, in the County of Middlesex aforesaid, did hide and conceal, against the Duty of their Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

By the Stat. 8 & 9 W. 3. c. 26. 'its enacted, That from and after the fifteenth Day of May, One thousand seven hundred ninety-seven, no Smith, Engraver, Founder, or Person or Persons whatsoever (other than except the Persons employed, or to be employed in and for his Majesty's Mint or Mints in the Tower of London, or elsewhere, and for Use and Service of the said Mints only, or Persons lawfully authorised by the Lords Commissioners of the Treasury, or Lord High Treasurer of England, for the Time being) shall knowingly make or mend, or begin to make or mend, or shall assist in making or mending of any Punchon, Counter punchon, Matrix, Stamp, Dye, Pattern, or Mould of Steel, Iron, Silver, or other Metal or Metals, or of Sand, or fine Founders Earth, or Sand, or any other Materials whatsoever, in and upon which there shall be, or be made or impressed, or which will make or impress the Figure, Stamp, Resemblance, or Similitude of both or either of the Sides or Flats of any Gold or Silver Coin current within this Kingdom: Nor shall knowingly make or mend, or begin or proceed to make or mend, or assist in making or mending of any Edger or Edging-tool,
Instru-

Instrument, or Engine, not in common Use in any Trade, but contrived for making of Money round the Edges with Letters, Grainings, or other Marks or Figures resembling those on the Edges of Money coined in his Majesty's Mint, nor any Press for Coinage, nor any Cutting-engine, for cutting round Blanks by Force of a Screw, out of slated Bars of Gold, Silver or other Metal; nor shall knowingly buy or sell, hide or conceal, or without lawful Authority or sufficient Excuse for that Purpose, knowingly have in his, her or their Houses, Custody or Possession, any such Puncheon, Counter-puncheon, Matrix, Stamp, Dye, Edger, Cutting-engine, or other Tool, or Instrument before-mentioned; and if any Smith, Engraver, Founder, or other Person or Persons whatsoever (other than, and excepted as aforesaid) shall offend in any of the Matters or Things aforesaid, then all and every such Offender and Offenders, their Counsellors, Procurers, Aiders, and Abettors shall be, and is, and are hereby adjudged to be guilty of High-Treason, and being of the said Offences, or any of them, convicted or attained, according to the Order and Course of the Laws of this Realm, shall suffer Death, as in Case of High-Treason.

Persons conveying out of the Mint any Puncheon, &c. and concealing the same, to be guilty of High-Treason.

Like Penalty on Persons marking the Edging of counterfeit Coin.

Or colouring, &c. any Coin resembling the current Coin.

Puncheon, Dye, &c. found in the Possession of any Person not employed in the Mints, may be seized, and produced in Evidence.

Counterfeit Money produced in Evidence, to be afterwards cut to Pieces.

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Persons blanching Copper for Sale, or mixing blanched Copper with Silver, &c. or taking or paying counterfeit milled Money, &c. are guilty of Felony, and shall suffer Death.

N. B. This Act expired at the End of the then next Session of Parliament : But by the Stat. 7 Ann c. 25. the Stat. 8. & 9 W. 3. c. 26. is made perpetual, and the Makers and Menders of Tools are to be prosecuted within six Months.

By the Stat. 15 & 16 Geo. 2. c. 28. it is enacted, That if any Person shall wash, gild, or colour any lawful Silver Coin called a Shilling or a Sixpence, or any counterfeit or false Shilling or Sixpence, or add to or alter the Impression, or any Part of the Impression, of either Side of any such lawful or counterfeit Shilling or Sixpence, with intent to make such Shilling resemble or look like, or pass for a Piece of lawful Gold Coin called a Guinea, or with intent to make such Sixpence resemble or look like, or pass for a Piece of lawful Gold Coin called a Half-guinea ; or shall file, or any Ways alter, wash, or colour any of the Brass Monies called Half-pence or Farthings, or add to or alter the Impression of either Side of a Half-penny or Farthing, with intent to make a Half-penny resemble or look like, or pass for a lawful Shilling, or with intent to make a Farthing resemble or look like, or pass for a lawful Sixpence, the Person and Persons so offending, in any of the Matters aforesaid, their Counsellors, Aiders, Abettors, and Procurers, shall be, and is, and are hereby adjudged to be guilty of High-Treason.

And if any Person shall utter or tender in Payment any false or counterfeit Money, knowing the same

same to be false or counterfeit to any Person or Persons, and shall be thereof convicted, such Person so offending shall suffer six Months Imprisonment, and find Sureties for his good Behaviour for six Months more, to be computed from the End of the first six Months; and if the same Person shall afterwards be convicted a second Time of the like Offence of uttering or tendering in Payment any false or counterfeit Money knowing, the same to be so, such Person shall, for such second Offence, suffer two Years Imprisonment, and find Sureties for his good Behaviour for two Years more, to be computed from the End of the said first two Years; and if the same Person shall afterwards offend a third Time in uttering or tendering in Payment any false or counterfeit Money, knowing the same to be so, and shall be convicted of such third Offence, he shall be, and is hereby adjudged to be guilty of Felony, without Benefit of Clergy.

And if any Person shall utter or tender in Payment any false or counterfeit Money, knowing the same to be false or counterfeit, to any Person or Persons, and shall either the same Day or within the Space of ten Days then next, utter or tender in Payment any more or alter false or counterfeit Money, knowing the same to be false or counterfeit, to the same Person or Persons, or to any other Person or Persons, or shall at the same Time of such uttering or tendering have about him or in his Custody one or more Piece or Pieces of counterfeit Money, besides what was so uttered or tendered, then such Persons so uttering or tendering the same, shall be deemed and taken to be a common utterer of false Money, and being thereof convicted, shall suffer a Years Imprisonment, and shall find Sureties for his good Behaviour for two Years more, to be computed from the End of the said Year; and if any

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Person having been once so convicted as a common Utterer of false Money, shall afterwards again utter or tender in Payment any false or counterfeit Money, to any Person or Persons, knowing the same to be false or counterfeit, then such Person being thereof convicted, shall, for such second Offence be, and is hereby adjudged to be guilty of Felony, without Benefit of Clergy.

And that the Person and Persons convicted of any of the Treasons and Felonies respectively herein before-mentioned, shall suffer Death, as in Case of High-Treason and Felony respectively; but the Blood of the Heirs of such Offender shall not be thereby corrupted, nor shall his Wife thereby lose her Dower.

And that the Person and Persons that shall be guilty of any of the Treasons, Felonies or Crimes aforesaid, shall be indicted, arraigned, tried, and convicted by such like Evidence, and in such manner as is now used and allowed against any Offenders for counterfeiting the lawful Coin, provided that there shall be no Prosecutions for any of the Offences made Treason or Felony by this Act, such Prosecution be commenced within six Months next after such Offence shall be committed.

And whereas the coining or counterfeiting of the Copper Money of this Kingdom is only a Misdemeanour and the Punishment often very small; if any Person shall make, coin, or counterfeit any Brass or Copper Money commonly called a Half-penny or a Farthing, such Person offending therein, and his, her, and their Aiders, Abettors, and Precurers being thereof convicted, shall suffer two Years Imprisonment and find Sureties for his or her good Behaviour for two Years more, to be computed from the End of the said first two Years.

Whoever shall apprehend any Person or Persons who have committed any of the Offences hereby made High-

High-Treason or Felony, or who shall have made or counterfeited any of the Copper Money aforesaid, and shall prosecute such Offenders to Conviction, shall have and receive of the Sheriff of the County, &c. for every such Offender so convicted of any of the said Treasons or Felonies, the Sum of forty Pounds, and for every such Offender so convicted of counterfeiting any of the said Copper Money, the Sum of ten Pounds within one Month after Conviction, or tendering a Certificate under the Hand of the Judge, &c.

Whoever being out of Prison, shall commit any of the Offences aforesaid, and shall afterwards discover two or more Persons who shall have committed any of the said Offences, so as such two or more Persons shall be thereof convicted, such Discoverers shall have his Majesty's Pardon.

If any Person shall be convicted of uttering or tendering any false or counterfeit Money as aforesaid, and shall afterwards be guilty of the like Offence in any other County or City, the Clerk of the Assise, or Clerk of the Peace for the County or City where such first Conviction was so had, shall at the request of the Prosecutor, or any other on his Majesty's Behalf, certify the same by a Transcript in few Words, containing the Effect and Tenor of such Conviction; for which Transcript two Shillings and Sixpence, and no more shall be paid, and such Certificate been produced in Court, shall be sufficient Proof of such former Conviction.

An Indictment of High-Treason for Endeavouring to draw a Subject of the King's to the Romish Religion.

Warwickshire. **T**HE Jurors for our Lord the King upon their Oath present, That *R. L.* late of the Parish of *Brackes*, in the County of *Warwick*, Clerk, little regarding the Laws and Statutes of this Realm, and not fearing the Pains and Penalties therein contained, on the eighteenth Day of *October*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, &c.* with Force and Arms at the Parish aforesaid, in the County aforesaid, feloniously and traiterously did put in Practice, and endeavour to withdraw, one *Thomas Walker*, of the Parish aforesaid, in the County aforesaid, Taylor, a Subject of our said Lord the King, from his natural Obedience to our said Lord the King, and that the said *R. L.* on the same Day and Year, at the Parish aforesaid, in the County aforesaid, for the Intention aforesaid, feloniously and traiterously did practice and endeavour to withdraw the said *Thomas Walker*, from the Religion under our said Lord the King, within this Realm most happily and excellently established, to the *Romish* Religion, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By 23 *Eliz. c. 1. Sect. 2.* it is enacted, That all Persons whatsoever, which have or shall have, or shall pretend to have Power, or shall by any Ways or Means, Treason to withdraw any from the Reli-

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Means, put in practice to absolve, gion established, persuade or withdraw any of the to the Romish Queen's Subjects, or any within her Religion.

Majesty's Realms and Dominions, from their natural Obedience to her Majesty: or to withdraw them, for that Intent, from the Religion by her Majesty's Authority established within her Majesty's Dominions, to the Romish Religion, or to move them, or any of them, to promise any Obedience to any pretended Authority of the See of Rome, or of any other Prince, State or Potentate, to be had or used within her Majesty's Dominions, or shall do any Overt-act to that Intent or Purpose; shall be to all Intents adjudged to be Traitors, and being thereof lawfully convicted shall have Judgment, suffer and forfeit, as in Case of High-Treason. And if any Per-

son shall by any Means be willingly absolved or withdrawn, as aforesaid, or willingly be reconciled, or shall promise any Obedience to any such pretended Authority, Prince, State or

It shall be Treason to be reconciled, or withdrawn to the Romish Religion.

Potentate, as is aforesaid, that then every such Person, their Procurors and Counsellors thereunto, being thereof lawfully convicted, shall suffer and forfeit as in Cases of High-Treason. That all and every

Person and Persons, that shall wittingly be Aiders or Maintainers of such Persons so offending as aforesaid, knowing the same, or which shall conceal any Offence as aforesaid, and shall not with-

The Penalty of Aiders, Maintainers and Concealers.

in twenty Days at the furthest, after such Person's Knowledge of such Offence, disclose the same to some Justice of the Peace, or other High Officer, shall be taken, tried and judged, and shall suffer and forfeit, as Offenders in Misprision of Treason.

Note, This Statute does not mention the Queen's Heirs and Successors.

An

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By the Stat. 3 Jac. I. c. 4. If any Persons shall put in Practice to absolve, persuade, or withdraw any of the King's Subjects from their natural Obedience to the King; or to reconcile them to the Pope and See of Rome, or to move them, or any of them to promise Obedience to any pretended Authority to the See of Rome, or any other Prince, State or Potentate; That then every such Person, their Procurers, Counsellors, Aiders and Maintainers, knowing the same, shall be to all Intents adjudged Traytors, and suffer and forfeit, as in Cases of High-Treason.

Putting in Practice to absolve or withdraw any from their Obedience, or to reconcile them to the Pope and See of Rome.

And if any such Persons shall be willingly absolved, or withdrawn as aforesaid, or shall promise Obedience to any such pretended Authority, &c.

Being withdrawn, or reconciled.

as aforesaid, every such Person or Persons, their Procurers and Counsellors, Aiders and Maintainers, knowing the same, shall be adjudged Traytors, and suffer and forfeit, as in Cases of High-Treason.

An Indictment of Petty Treason against a Woman poisoning her Husband.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *Alice Brampston*, late of the Parish of *Croydon*, in the County of *Surry*, Widow, late Wife of *John Brampston*, late of the same Place, Yeoman, deceased, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, and of her Malice aforesaid, contriving and intending him the said *John Brampston*,

Brampston, her said late Husband to deprive of his Life, and him feloniously and traiterously to kill and murder, on the eleventh Day of *January*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, feloniously, traiterously, wilfully, and of her Malice aforethought, did mix and mingle a great Quantity of mortal Poison, called *Arsenick*, into a Quantity of Water-Gruel; and that she the said *Alice Brampston*, then and there, feloniously, traiterously, wilfully, and of her Malice aforethought, did give and deliver the said Water-Gruel, so mixt with the said Poison as aforesaid, to the said *John Brampston*, her said then Husband, to be drank by him the said *John Brampston*; (she the said *Alice Brampston* then and their well knowing the said *Arsenick* to be a mortal Poison) and the said *John Brampston*, by the Persuasion and Instigation of the said *Alice*, the said Water-Gruel, so mixt with Poison as aforesaid (not knowing the same) did then and their drink, and swallow down into his Body; by which Drinking and Swallowing of the said Water-Gruel, so mixt with Poison as aforesaid, the said *John Brampston* then and there became sick and greatly distempered in his Body, of which Sicknes and Distemper, he the said *John Brampston*, from the said eleventh Day of *January*, in the Year aforesaid, until the twelfth Day of the same Month of *January*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did languish, and languishing did live, on which said twelfth Day of *January*, in the Year aforesaid, in the County aforesaid, of the said Sicknes, occasioned by the Drinking of the Water Gruel, so mixt with Poison as aforesaid, died: And so
the

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the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *Alice Brampston* the aforesaid *Thomas Brampston*, her said late Husband, in Manner and Form aforesaid, feloniously, traiterously, wilfully, and of her Malice aforethought, did Poison, kill and murder, against the Peace of our said Lord the King, his Crown and Dignity.

At Common Law, not only the Offences specified in the Stat. 25 Ed. 3. Stat. 3. c. 2. but many others also were deemed Petty Treasons, which are not so at this Day; as Piracy by a Subject; Discovery of the King's Counsel by one of the Grand Jury; an Attempt by a Wife to kill her Husband, &c. but by the Stat. 25 Ed. 3. Stat. 5. c. 2. no Offence shall be adjudged Petty Treason, except in the following Instances:

1. *Where a Servant kills his Master.*

2. *Where a Wife kills her Husband.*

3. *Where an ecclesiastical Man, secular or religious, kill his Prelate, to whom he owes Obedience.*

The Murder of a Mistress, or of a Master's Wife, has been adjudged Petty Treason within this Statute, for notwithstanding the Persons slain can in neither of these Cases come under the Word Master, yet they are clearly within the Meaning thereof, being used here to signify any Person, to whom another stands related as a Servant.

All Procurers, Aiders or Abettors in any of these Offences are punishable within the Meaning of this Act, in the same Manner as it was before; for the plain Intent of the Statute is only to restrain Proceedings against other Crimes, as Petty Treasons, but no way to alter the Law as to these.

*Persons accused of Petty Treason, shall be construed to be either Not Guilty at all, or Principal, or Accessary, according to the known Rules of Law in
other*

other Cases; and from hence it follows, that if the Fact appears to have been done upon a sudden Falling-out, or in the Party's necessary Self-defence, &c. it cannot be Petty Treason; and vice versa, generally where-ever the Circumstances are such, as will make the killing of a Stranger by a Stranger, Murder, they make the killing of a Husband, Master, &c. Petty Treason: Yet it hath been adjudged, that if a Wife or Servant procure a Stranger to kill the Husband or Master, in the Absence of such Wife or Servant, neither the Procurer nor Actor are guilty of Petty Treason, but of Murder only; because it is an allowed Maxim, That the Offence of an Accessary can never be of a higher Kind than that of the Principal; but it seems clear, that if the Wife or Servant be either actually present when the Crime is done, or present only in Judgment of Law, as being in the same House, but not in the same Room, (in which Case, the Hopes of their immediate Assistance encourages and emboldens the Murderer to commit the Fact, which otherwise, perhaps, he would not have dared to do, and makes them guilty in the same Degree, as if they had actually stood by with their Swords drawn, ready to second the Villany) such Wife or Servant, being Principals as much as Strangers, are guilty of Petty Treason, and the Stranger of Murder; but it is said, that if a Wife procure a Servant to kill the Husband, both are guilty of Petty Treason: And even if a Stranger procure a Wife or Servant to kill the Husband or Master, it seems that he may be indicted as Accessary to Petty Treason. See Hawk. Pl. C. 2. and his Quotations upon Petty Treason.

TRANSPORTATION.

An Indictment of Felony ; returning from Transportation.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That at the Delivery of the Gaol of our Lord the King of *Newgate*, holden for the County of *Middlesex*, at *Justice-Hall*, in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the fifth Day of *June*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before *James Reynolds*, Esq; Chief Baron of the Court of *Exchequer* of our said Lord the King, *Sir Edmund Probyn*, Knt. one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself, *Sir John Fortescue Aland*, Knt. one of the Justices of his Majesty's Court of *Common-Pleas*, and others their Fellows Justices, Justices of our said Lord the King, assigned to deliver the Gaol of *Newgate* of the Prisoners therein being, *E. L.* late of the Parish of *St. Luke*, in the County of *Middlesex*, Labourer, according to the due Course of Law

Caption of the Court.

was tried, *For that he the said E. L. on the sixth Day of May, in the seventh Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Brass Tea-Kettle, of the Value of four Shillings; two Brass Candlesticks, of the Value of two Shillings,*

Recital of the Indictment, upon which the Defendant is convicted, and ordered for Transportation.

Shillings, and one Callimanco Gown of the Value of five Shillings, of the Goods and Chattels of one Isaac Wantpenny, then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity. And thereupon, by a certain Jury of the Country, between our said Lord the King and the said E. L. in that Behalf then duly taken, he the said E. L. was duly convicted upon the Indictment aforesaid, and thereupon the aforesaid E. L. by the above-named Justices of our said Lord the King, assigned to deliver his Gaol of Newgate of the Prisoners therein being, was ordered to be transported as soon as

Order for Transportation.

conveniently might be, to some of the Colonies and Plantations then inhabited by the Subjects of our said Lord the King in *America*, in Parts beyond the Seas, for the Term of seven Years, according to the Form of the Statute in such Case made and provided, as by the Record thereof doth more fully appear: And that the said E. L. afterwards, to wit, on the twelfth Day of *August*, in the said seventh Year of the Reign of our said Lord the King, with Force and Arms, feloniously, without any lawful Cause, was *at large* within this Realm of *Great Britain*, to

The Offence, being *at large* before Term expires.

wit, at the the Parish of *St. Martin* in the *Field*, in the County aforesaid, before the Expiration of the Term of seven Years, for which he the said E. L. was ordered to be transported, as aforesaid, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. Vide the *Statute of 4 Geo. 1. c. 11. 6 Geo. 1. c. 23.*

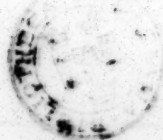
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By the Stat. 16. Geo. 2. c. 15. it is enacted, That if any Felon or other Offender already ordered, or hereafter to be ordered for Transportation, or who hath already, or hereafter shall agree to transport him or herself on certain Conditions, to any of his Majesty's Colonies or Plantations in America, either for Life, or any other Number of Years, shall be afterwards at large within * that Part of the Kingdom of Great Britain, without some lawful Cause, before the Expiration of the Term for which he or she were so ordered to be transported, or had so agreed to transport him or herself, all and every such Person or Persons being thereof lawfully convicted, shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

And every such Offender or Offenders shall be tried for any of the Offences aforesaid, before such Judges, and in such Manner, and the same Evidence made use of, for his or their Conviction, as is directed in and by the Stat. 6. Geo. 1. c. 23.

And whoever shall discover, apprehend, and prosecute to Conviction of Felony, without Benefit of Clergy, any such Offender or Offenders so found at large within the Kingdom of Great Britain, shall be entitled to a Reward of the Sum of twenty Pounds for every such Offender so convicted as aforesaid, shall have the like Certificate and like Payments made without Fee or Reward, as any Person or Persons may be entitled unto, for the apprehending, presenting, and Conviction of Highwayman, by any Law or Laws for that Purpose.

* Query, what Part ?



TURNPIKES.

An Indictment of Felony for cutting down and destroying a Turnpike-Gate.

THE Jurors for our Lord the King upon their Oath present, That *John Jackson*, late of the Parish of in the County of Labourer, and *James Bilson*, late of the Parish aforesaid, in the County aforesaid, Labourer, and divers other Persons to the Jurors aforesaid yet unknown, being wicked end malicious Persons, and not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties in the same contained, after the fifteenth Day of *May*, in the Year of our Lord One thousand seven hundred and thirty-five, to wit, on the fourteenth Day of *January*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, a certain Turnpike-Gate there (set up and erected to prevent Passengers from passing by without paying the Toll laid and directed to be paid by an Act of Parliament, made in the Year of the Reign of entitled, *An Act, &c.* (*Recite the Title of the Act*) with Force and Arms, wilfully, maliciously and feloniously, did cut down and destroy, against the Form of the Statute in that Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Qq 2

By

596 **Precedents of Indictments, &c.**

By the Stat. 8 Geo. 2. c. 20. it is enacted, That if any Person or Persons whatever, after the fifteenth Day of May, in the Year of our Lord 1735, by Day or by Night, wilfully or maliciously pull down, cut up, pluck up, throw down, level, or otherwise destroy any Turnpike-Gate or Turnpike-Gates, or any Post or Posts, Rail or Rails, Wall or Walls, or any Chain, Bar, or other Fence or Fences belonging to any such Turnpike-Gate or Turnpike-Gates, or any other Chain, Bar, or Fence of any Kind whatsoever, set up or erected, or hereafter to be set up or erected, to prevent Passengers from passing by without paying any Toll, laid and directed to be paid by any Act or Acts of Parliament already made, or hereafter to be made for that Purpose, or any House or Houses erected, or to be erected, for the Use of any such Turnpike-Gate, &c. or any other Fence or Fences, or any Lock, Sluice, Floodgate, or other Works, or any navigable River, erected, or to be erected by Authority of Parliament; or forcibly rescue any Person or Persons, being lawfully in Custody of any Officer, or other Person, for any of the Offences before-mentioned; that then, and in any of the said Cases, every Person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

Note, There is no Time limited to prosecute.

Attainder in this Act not to work Corruption of Blood, or Forfeiture, &c.

This Act continues five Years from May 15, 1735, and from thence to the End of the next Session of Parliament, and is continued to the 1st June 1745, and from thence to the End of the next Sessions of Parliament, and by the Stat. 20. Geo. 2. c. 47. further continued to June 1, 1754.

W O M E N.

An Indictment of Felony for taking a Woman against her Will, and marrying her ; (she having Substance in moveable Goods, Lands, and Tenements, &c. and being her Father's Heir.)

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *James Campbell*, late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Gent, *Archibald Montgomery*, late of the same, Labourer, and *John Johnson*, late of the same, Esq; on the fourteenth Day of *November*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *Mary Wharton*. Spinster, then and yet being under the Age of fourteen Years, and a Maid, and only Daughter and Heir of *Philip Wharton*, Esq, then being deceased, and she the said *Mary Wharton* then and there having Substance in moveable Goods, of the Value of one thousand Pounds of lawful Money of *Great Britain*, and in Lands and Tenements, to the Value of fifteen hundred Pounds by the Year, of like lawful Money, and in the Peace of God and our said Lord the King then and there being, violently did make an Assault, and her the said *Mary* then and there did put in great Danger of her Life,

598 Precedents of Indictments, &c.

and her the said *Mary*, with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, feloniously, and against the Will of her the said *Mary*, violently take, force, and convey away, with Intention that he the said *James Campbell*, for Lucre, and the Sake of her Substance, feloniously should marry, and have the said *Mary* to Wife; and that the said *James Campbell* afterwards, to wit, on the said fourteenth Day of *November*, in the Year aforesaid, at the Parish of *St. Margaret Westminster*, in the County aforesaid, by the Assent Consent, Procurement and Abetment of the said *Archibald Montgomery*, *John Johnson*, and of *Charlotta*, the Wife of *Francis Collingwood*, late of the Parish of *St. Margaret, Westminster* aforesaid, in the County aforesaid, Gent. and *Walter Clever*, late of the same Parish and County, Clerk, with Force and Arms, at the Parish last above-mentioned, in the County aforesaid, feloniously, and for Lucre of the said Substance of the said *Mary Wharton*, did marry, and had the said *Mary Wharton* to Wife, to the great Displeasure of Almighty God, to the great Disparagement of the said *Mary*, and the utter Heaviness and Discomfort of all her Relations and Friends; against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Archibald Montgomery*, *John Johnson*, *Charlotta*, the Wife of *Francis Collingwood*, and *Walter Clever*, on the said fourteenth Day of *November*, in the Year aforesaid, at the Parish of *St. Margaret, Westminster*, aforesaid, in the said County of *Middlesex*, with Force and Arms, knowingly and feloniously were assisting, aiding, procuring, assenting, abetting
and

and maintaining the aforesaid *James Campbell* in doing and committing the Felony aforesaid, in Form aforesaid, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

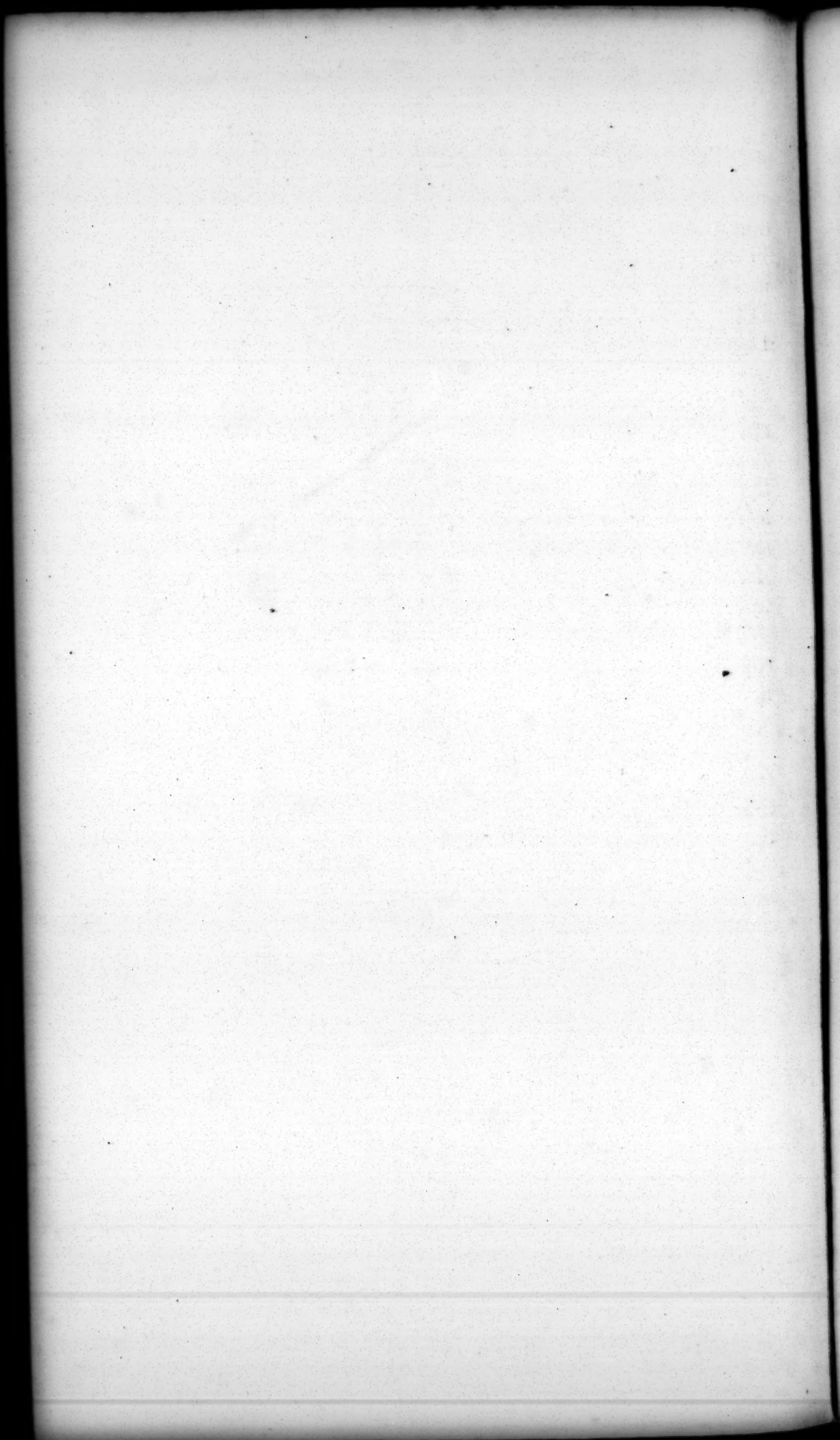
By the Stat. 3. H. 7. c. 2. Maidens, Widows, and Wives, having Substance in moveable Goods, Lands or Tenements, or being Heirs apparent to their Ancestors, what Person or Persons soever, taking such Woman against her Will, for Lucre of the Substance, marrying them, and the Procurors, Abetors, and Receivers of such Women so taken away, are judged principal Felons.

This Act does not extend to any Person taking any Woman, only claiming her as his Ward or Bond-woman.

By the Stat. 39 Eliz. c. 9. Clergy is taken away from all such Persons who shall offend against the Stat. 3. H. 7. c. 2. and such as shall stand mute, &c. or challenge above twenty.

This Act extends only to such Persons as shall be Principals, or Procurors, or Accessaries before such Offence committed.

Note, It is a perpetual Law, and no Time limited to prosecute.



THE
CLERK of ASSISE's
CIRCUIT COMPANION;

CONTAINING,

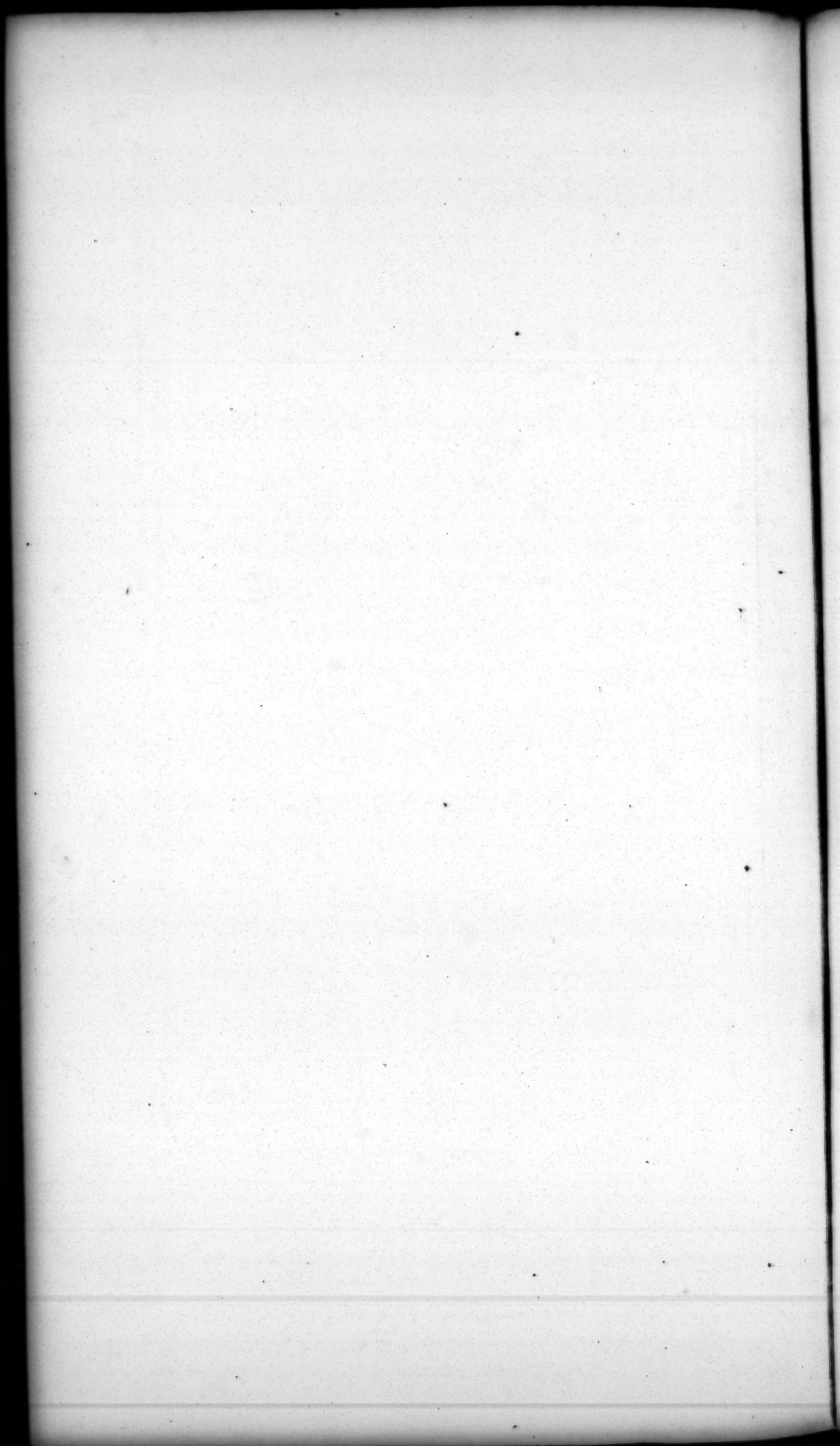
The Appointment of the several Officers attending
the CIRCUITS, their Duty, and the Fees usually
taken by them.

Compiled from the Original Manuscripts, of a late
Eminent CLERK of ASSISE.

In the S A V O Y:

Printed by *H. Lintot*, (Assignee of *Edw. Sayer, Esq;*) for
J. W O R R A L L.

M.DCC.XLIX.



THE
CLERK of ASSISE's
CIRCUIT COMPANION, &c.

*An Appointment of the Office of
the Clerk of the Assises.*

TO all to whom this present Writing shall come, Sir Robert Raymond, Knt. Chief Justice of our Lord the King, to hold Pleas before the King himself and Chief or primary Justice of our Lord the King assigned, as well to take all Assises, Juries, and Certificates before whatsoever Justice's arraigned, as well by diverse Writs of the Lord William and Lady Mary, late King and Queen of England, &c. and also by diverse other Writs of the same William, late King of England, &c. and by diverse Writs of the Lady Anne, late Queen, first of England, &c. and afterwards of Great Britain, &c. as by diverse Writs of our Lord the present King, in the Counties of Hertford, Essex, Kent, Sussex, and Surry, and in the County of

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of the City of *Canterbury*, and to deliver the Gaols in the Counties aforesaid, and City of *Canterbury*, of the Prisoners in them, and each of them being, Greeting, Know that I the said Sir *Robert Raymond* much confiding in the Skill prudent Circumspection, Fidelity, and Industry of *Richard Michell*, of the *Middle-Temple*, *London*, Esq; in and about the Execution of the Office or Clerkship, of Clerk of the Assises within the Counties and City aforesaid, and for diverse other good Causes and Considerations me hereunto specially moving have assigned, given, granted, appointed, and by this my present Writing confirmed, to the said *Richard Michell*, the Office or Clerkship of Clerk of the Assises, and of the Crown, to take all Assises, Juries, and Certificates in all the said Counties, and each of them, and within the said City of *Canterbury*, and also to deliver the Gaols in the same Counties and City, and each of them; and I ordain, make, constitute, and appoint by these Presents, the said *Richard Michell*, Clerk of the Assises, all such Assises, Juries, and Certificates to take, and Gaols to deliver in all the said Counties, and each of them, and in the said City, from Time to Time hereafter to be taken and delivered; To hold, Enjoy, Exercise, and Occupy the said Office or Clerkship of Clerk of the Assises, and of the Crown, and also all other the Premises aforesaid, to the said *Richard Michell*, by himself or by his sufficient Deputy or Deputies for and during the Term of the Life of the said *Richard Michell*, together with all and all Manner of Regards, Fees, Preheminences, Allowances, Profits, Emoluments, Wages, and Commodities whatsoever, to the said Office in any Manner belonging or appertaining in as ample Manner and firm as *John Lyndfel*, Esq; deceased, *John Glaswik*, Esq; also deceased,

John

John Mead, Esq; also deceased, John Sorrel, Esq; also deceased, Henry Glaswik, Esq; also deceased, John Keeling, Esq; also deceased, John Eldred, Esq; also deceased, Thomas Lee, Esq; also deceased, Eldred Lancelot Lee, Esq; also deceased, or Simon Michell, Esq; or any them, or any other or others at any Time heretofore having or exercising the said Office had or received, or ought to have had or received for or in the Exercise of the said Office, in Testimony whereof to this my present Writing, I have put my Seal, dated the seventh Day of June, in the twelfth Year of the Reign of our Sovereign Lord George, by the Grace of God, of Great Britain, France, and Ireland, King Defender of the Faith, &c. and in the Year of our Lord 1726.

R. (L.S.) *Raymond.*

By the Stat. 13. Ed. 1. c. 30. Anno 1285, it is provided, That the Justices of both Benches shall have in their Circuits Clerks to enrol all Pleas pleaded before them, like as they used to have in Times past.

The Duty of the Clerk of the Assises.

THE Clerk of the Assises has the Care and Custody of the Records belonging to his Office; when the Circuits are appointed, he is to attend the Judges, and receive their Directions about the Times and Places of holding the Assises in the respective Counties in the Circuit, to sue forth the several Commissions and Writs of Association for holding the same, to Issue out Precepts thereupon, one upon the Commission of Assise, and another upon the Commission of Oyer and Terminer

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miner, for every County in the Circuit, directed to the respective Sheriffs, in order for them to Summon and return the several Juries; which Precepts are first signed and sealed by the Judges, and then delivered to the several Sheriffs, to be by them executed for the Purposes aforesaid; the Clerk of the Assises is to attend upon the Judges throughout the Circuit, with all his Under-Officers, and to carry with him the Commissions, and such of the public Books and Records belonging to the said Circuits, as the current Business of the Circuit may require; he is to receive and file the Returns of all Writs and Precepts, all Inquisitions in Murder and Manslaughter, all Appeals and all Recognizances, Informations and Examinations taken before and returned by the Justices of the Peace of the several Counties within the Circuits, and to enter and Docquet, all the Causes on the Crown Side. When the Prisoners are called to the Bar to take their Trial, the Clerk of the Assises is to make an Abstract of the Bill against every Prisoner, with the Witnesses's Names, for the Use of the Judges, before he proceed to the Trial; and also to enter upon a Roll the Pannel of the Jurors who try the Prisoner, and the Name of the Prisoner tried by the said Jurors, and the Judgment given by the Court. He is to make the Calendars, and deliver Copies thereof to the Judges of Assise, in which all the Judgments and Orders of the Court are entered, which Calendars are signed by the Judges, and afterwards delivered to the respective Sheriffs, as their Warrants and Authority for putting the said Judgments and Orders in Execution. Upon Indictments and Presentments for Trespases, Misdeameanours and other Offences where the Parties are not in Custody or upon Bail, it is the Duty of the Clerk of the Assises to Issue out
Process

CIRCUIT COMPANION. 607

Proceſs againſt the ſeveral Defendants, in order to compel them to appear and answer the Charge alledged againſt them. And at the Cloſe of every Affiſes, he is to call over all Perſons bound by Recognizance, and to mark the ſeveral Diſcharges and Reſpites thereon, and after the Affiſes are over to draw up an Eſtreat of all the Recognizances, Fines, Amerciaments, and Iſſues forfeited or impoſed in that Circuit at that Affiſe, and after the the Judges have been attended with and ſigned the ſame, he is to ingroſs it on Parchment, and return it into the Exchequer upon Oath.

Fees uſually taken of the Clerk of the Affiſes.

On the Crown Side.

F OR every Priſoner convicted, burnt in the Hand, or Whipt	}	o	4	8
For the Copy of every Indictment in Felony, with the Caption of the Court, and the Names of the Grand Jury	}	o	13	4
For pleading every ſpecial Pardon, Allowance, and Gloves	}	o	13	4
For the Allowance and Return of a Certiorari in Felony	}	o	13	4
For the Allowance of a Certiorari in Treſpaſs	}	o	6	8
More for every Name after the firſt	}	o	2	o
For the Return thereof		o	2	o
For a Copy of every Indictment, not exceeding five Sheets	}	o	3	4
				For

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For every Sheet above five	0	0	8
For making and discharging every Process	0	2	6
For every Venire	0	2	6
For every Writ of Restitution	0	6	8
For the Allowance of a Warrant of Noli Prosequi from the At- torney General, for every Person	0	13	4
For a Certificate, that a Person is indicted	0	2	0
For a Habeas Corpus, the two Writs one to deliver, and the other to receive	0	4	0
For respiting every Recognizance to answer	0	6	8
For every Subpoena to testify	0	2	0
For every Order	0	2	0
For a Transcript from an Indict- ment, in order to convict a Felon at large after being ordered to be transported	0	2	6
Out of the twenty Pounds paid for Glove Money at a Maiden Assise	0	10	0
For every Prisoner discharged by Proclamation or acquitted of Fe- lony	0	8	4
For discharging or taking every Re- cognizance to answer	0	6	4
For inrolling a Pardon, and Copy of every Sheet	0	1	4
For every Prisoners appearing, Plea of Not Guilty, Recognizance and entering the Issue in Trespass, called the Traverse Fee	0	12	10
For Drawing, Entering, and Copy of Issues, Records of Conviction, and Acquittals for every Sheet	0	1	4

For

CIRCUIT COMPANION. 609

For a Submission of Cessett Pro-	}	o	15	4
cessus against Inhabitants, includ-				
ing the Appearance and Copy				
For a single Person		o	13	4
For recording every Ignoramus in	}	o	6	4
Felony				
For an Ignoramus in Trespass		o	8	4
For every Certificate of a Reward,	}	o	5	o
by Act of Parliament				

Fees on Informations.

For every Subpoena	o	2	6
For the Copy of every Information	o	3	4
If above five Sheets, Eight-pence <i>per</i> Sheet			
For every Plea of <i>Not Guilty</i>	o	2	o
For every Fieri Facias	o	3	6

The Fees upon Appeals are the same for filing Appearance, Plea, and entering Judgments, as in Informations; and the Fees for Drawing, Ingrossing, and Copies of the Records of Recognizances, and of Convictions, or Acquittals in Appeals, Demurrers, Informations, or Indictments for Highways, Nuisances, or other Criminal Matters whatsoever, not Felony, are the same as in Cases of Trespass.

For a Writ of Privelege	o	6	8
For recording every Submission of	}	o	10
a Recusant and certifying it into			
the Exchequer			o

R r

For

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For a Bond for the Defendant to pay Costs in Case he be convicted, after the Allowance of the Certiorari, in such particular Cases as the Statute in that Case requires	}	0	2	6
For allowing a Writ of Error		0	8	8
For certifying the Record thereupon, for every Sheet, Eight-pence				
For allowing every Certiorari out of Chancery; for the Record of Man- slaughter <i>per</i> Infortunium, &c. in order for a Pardon of Course	}	0	8	8
For certifying the Record there- upon, for every Sheet	}	0	0	8
For filing every Information		0	6	8
Defendant's Appearance thereupon		0	4	0
For Entering Judgment either for the Informer or Defendant	}	0	6	8
For every Plea of <i>Not Guilty</i>		0	2	0
For every other Plea according to the length <i>per</i> Sheet	}	0	1	0
For allowing and filing every De- murrer and Copy	}	0	13	4
For joining in Demurrer		0	6	8
For replying to the Rejoinder		0	6	8
Quashing an Indictment		0	13	4

On the Nisi Prius Side.

For Entering every Record		0	2	0
For every Warrant of Attorney, where the Attorney on Record does not appear	}	0	0	8
Calling every Cause		0	1	0
Every Default, Postea, and Tales, each		0	2	0
Every Defendant's Verdict or Non- suit, each	}	0	2	0
Every				

CIRCUIT COMPANION. 611

Every Privy Verdict	o	2	o
Withdrawing a Juror of each Side	o	o	6
Minutes and Draft of an Order of Affise to be made a Rule of Court, and two Copies thereof, of each Side	}	o	2 9
If a View to be taken for a Copy of the Jury			
Proclamation in Crown Causes	o	2	o
Taking Notes of a special Verdict, each Side	}	o	3 4
Drawing every special Verdict at the equal Charge of the Plaintiff and Defendant, for every Sheet			
Ingrossing it, for every Sheet	o	1	o
For every Default, Postea, and Tales, or for calling the Jury ac- cording to late Statute	}	o	2 o
Filing Exchequer Commission			
Filing the Attorney Generals War- rant for a Tales	}	o	4 o

An Appointment of the Office of Asso- ciate on the Nisi Prius Side.

TO all to whom these Presents shall come,
Richard Michell, of the *Middle-Temple*, *Lon-
don*, Esq; Clerk of the Assises and Pleas of the
Crown, within the Counties of *Surry*, *Sussex*, *Kent*,
Essex, and *Hertford*, and the County of the City
of *Canterbury*, sendeth, Greeting, Know ye that
the said *Richard Michell* for diverse good Causes
and Considerations him thereunto especially moving
doth hereby nominate and appoint his Brother
John Michell, of *Lincoln's-Inn*, in the County of

R r 2 *Middlesex*,

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Middlesex, Gent. to be Associate on the *Nisi Prius* Side, within the said Counties and City, until the said *Richard Michell* shall otherwise appoint, in Witness whereof, the said *Richard Michell* hath hereunto set his Hand and Seal, the twenty-fifth Day of *June*, Anno Dom. 1731.

R. Michell, (L. S.)

The Duty of the Associate.

THE Associate is to receive from the Marshal all the Records, to make upon the Pannel in every Cause that is tried; the Jurors who appear and are sworn; to read all Exhibits, and to take and Record all Verdicts, and to draw up and enter the Orders, and to return the Postea.

Fees usually taken by the Associate.

Calling every Cause	0	1	0
Reading the Issue	0	2	0
Every Issue after the first	0	1	0
Every Defendant's Verdict or Nonfuit	0	2	0
Every Defendant after the first, in a } Defendant's Verdict	0	2	0
Every Privy Verdict	0	2	0
Challenge of a Juror, and return } thereof on the Postea	0	2	0
Indorsing a Certificate	0	2	0
Reading an Evidence	0	1	0
Withdrawing a Juror, on each Side	0	0	6
Minutes and Draft of an Order of } Affise, to be made a Rule of Court, } and two Copies thereof, from each } Side	0	2	9

If

CIRCUIT COMPANION. 613

If a View to be taken for two Copies of the Jury	}	o	o	6
Proclamation in Crown Causes		o	2	o
Taking Notes of the special Verdict, each Side	}	o	3	4
For a Copy of every special Verdict, each Sheet	}	o	o	8
Recording the Defendant's Confessing, Lease, Entry, and Ouster	}	o	2	o
Filing Exchequer Commissions		o	2	o
Taking Notes in Matters of Account		o	4	o
Copy of the Notes in a special Verdict of each Side	}	o	3	4

An Appointment of the Office of Clerk of the Arraignment.

TO all to whom these Presents shall come,
Richard Michell, of the *Middle-Temple*, *London*, Esq; Clerk of the Assises and Pleas of the Crown, within the Counties of *Surry*, *Suffex*, *Kent*, *Essex*, and *Hertford*, and the County of the City of *Canterbury*, sendeth, Greeting, Know ye that the said *Richard Michell* for diverse good Causes and Considerations him thereunto especially moving doth hereby nominate and appoint *John Chambre*, of *Lincoln's-Inn*, in the County of *Middlesex*, Gent. to be Associate and Clerk of the Arraignment on the Crown Side, within the said Counties and City, until the said *Richard Michell* shall otherwise appoint, in Witness whereof, the said *Richard Michell* hath hereunto set his Hand and Seal, this sixteenth Day of *August*, *Anno Dom. 1732*.

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The Duty of the Clerk of the Arraignment.

THE Clerk of the Arraignment is to read the Commissions, to call over the Justices, and all other Officers and Ministers, who are obliged to attend the Court, to receive the Constable's Presentments, and to call over the Grand Jury, and Petit Juries, and to Arraign the Prisoners.

Fees usually taken by the Clerk of the Arraignment.

For every Conviction (whether by Confession, or Verdict) or, Ac- quittal in Trespass	}	0	2	0
For a Certificate, the Person is indicted		0	1	0
For every Writ of Habeas Corpus		0	0	6
For every Exhibit		0	1	0
For every Subpoena		0	0	6
For every Order		0	3	0
Drawing every Constable's Present- ment, if required	}	0	0	6
For every Defendant's Verdict on a Traverse, to the Clerk of the Arraignment, (who is Associate on the Crown Side)	}	0	2	0
For every Subpoena Ticket		0	0	4
For every Certificate for a Reward		0	1	0

The

The Clerk of the Indictments.

THIS Officer is also appointed by the Clerk of the Assises.

His Duty is to draw and ingross all Bills of Indictments, which are to be laid before the Grand Jury, in each County, upon the Circuit.

Fees usually taken by the Clerk of the Indictments.

For drawing every Indictment in Felony	o	2	o
In Trespafs	o	3	4
If special, Eight-pence a Sheet	o	o	o
Ingrossing every Sheet	o	o	4
Of the Sheriff of each County, for a } Copy of the Calendar	o	17	6
Of the Gaoler of the County of } Surry, for the Calendar	o	7	6
Of the Gaoler of each other County, } for the like	o	5	o

JUDGE's MARSHAL.

THE Judge usually appoints this Officer by Parol, during Pleasure.

The Duty of this Officer is to receive the Records and Writs of *Nisi Prius*, between Party and Party, and to Marshal and Enter the same, together with the Traverfes on the Crown Side, between the King and the Party, in a Book kept for that Purpose ; and from such Book, to make out a Paper, or Schedule of the said Causes, for the Perusal and Inspection of the Judges, the Council, and Attorneys ; he opens the Records, and has the

616 The CLERK of ASSISE's

Custody of them till the Issues therein severally joined, are tried; and when the Issues are not tried, he takes Care of the Records till called for by the Party, he also Enters all Ne Recipiatur; he is to receive from the Sheriff at the Beginning of the Assises in every County, the Names of the Jury, between Party and Party, and to roll them up, and put them into the Box, and to have the Custody of the Ballots and Box, pursuant to the late Statute.

Fees usually taken by the Marshal.

On the *Nisi Prius* Side.

Entering every Cause for Trial,	}	0	11	8
Judge 6 s. 8 d. Clerk of Assise 2 s.				
Marshal 2 s. Cryer 1 s. in all				
Calling the Cause		0	6	0
Attending the Sheriff, before the Court Sits, to receive the Names of those who are sworn to try the Issue apart from the rest, in each Trial, and having the Care and Custody of all their Names during the Assises, which by the late Statute, for the better Regulation of Juries, is required to be done by the Marshal.	}	0	2	0
For a Warrant of Attorney in Causes where the sworn Attorney on Record, for the Plaintiff and Defendant, does not appear.				
Challenge of the Jury by the Plaintiff or Defendant	}	0	2	0
A Cause referred, or Juror withdrawn, each Party	}	0	1	0
				Confession

CIRCUIT COMPANION. 617

Confession of Lease, Entry, and Ouster, in Ejectment	}	0	2	0
Nonfuit or Defendant's Verdict		0	2	0
Every Record withdrawn or Ne Re- cipiatur entered	}	0	4	0
On a Privy Verdict, the Marshal receives for the Judge 6 s. 8 d.	}	1	3	8
Clerk of Assise 2 s. Marshal 3 s.				
Cryer 2 s. Steward 2 s. Clerk 2 s.				
Cook 2 s. Butler 2 s. Porter 2 s.				
in all				

In the Crown-Office, Exchequer, and Quitam
Causes, double Fees are taken, except for private
Verdicts.

On the Crown Side.

Entering every Traverse, Judge 6 s. 8 d. Clerk of Assise 2 s. Marshal 6 s. Cryer 1 s. in all	}	0	15	8
Calling		0	4	0
Every Recognizance entered into, respited, or discharged; every Sub- mission to a Fine; every Person acquitted, or discharged by Pro- clamation, and general Pardon pleaded	}	0	2	0
A special Pardon pleaded		1	0	0

JUDGE'S CRYER.

THIS Officer holds his Place by Parol Ap-
pointment from the Judge, during Pleasure.
His Duty is to make the several Proclamations, to
call over all the Justices of the Peace, Mayors,
Bailiffs

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Bailiffs of Corporations and Boroughs, Coroners, Chief Constables, and other Officers; to call the Grand Jury, and to call and swear the Petit Jury; to swear the Bailiffs, to prove Service on such Jurors as are called, and do not appear; to swear Witnesses, and all other Persons who are to be examined in Court, and to open and adjourn the Court. Vide Postea, the Office of Judge's Cryer on the Circuit.

Fees usually taken by the Cryer.

On the Crown Side.

Every Witness sworn to a Bill of Indictment for the Prisoner	}	0	0	4
Every Recognizance entered into, respited or discharged; every Acquittal, Discharge by Proclamation; Submission to a Fine, and general Pardon pleaded		0	2	0
Entering a Traverse		0	1	0
Calling a Traverse, swearing a Jury, and Proclamation for Information	}	0	6	0
At a Maiden Assises in lieu of Gloves (received of the Steward)		0	4	0
Of the Sheriff for opening the Court		1	1	0
A special Pardon pleaded		1	0	0

On the Nisi Prius Side.

Every Cause entered (received of the Marshal)	}	0	1	0
Calling				

CIRCUIT COMPANION. 619

Calling the Cause, Tales or Ballot, } and swearing the Jury	0 6 0
Swearing a Witness, to give Evidence	0 0 4
Challenge by Plaintiff, or Defendant ; calling in Ejectment to confes ;	0 2 0
[Witnesses sworn on voyer dire, Nonfuit ; Defendant's Verdict, or private Verdict, each	
Swearing an Interpreter for Plaintiff or Defendant	0 2 0
Withdrawing a Juror, or Cause re- ferred, each Side	0 1 0

In Crown-Office, Exchequer-Office, or *Qui tam* Causes, double Fees are taken ; and in a Crown-Office Cause for making the Proclamation for Information, four Shilling.

J U D G E ' s C L E R K and S T E W A R D.

THIS Office is generally executed by one and the same Person, who holds his Place during the Pleasure of the Judge by Parol Appointment. His Duty is to draw up and ingross on Parchment, the Admission of Infants, to sue or defend by their next Friend or Guardian, to read over to the Parties the Contents of all Fines and Warrants of Attorney, for suffering common Recoveries taken and acknowledged before the Judge of Assise, to write the Captions thereon, keep Duplicates of them signed by the Parties, acknowledging the same, and to file them in due Order — He also attends the Judge as a Trainbearer, and keeps and makes up the Accounts of the Circuit.

Fees

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Fees usually taken by this Officer:

For every Habeas Corpus, out of the Clerk of the Assise-Office, by the said Justice	}	0	4	0
Every Petition, if not from a Prisoner		0	2	6
Allocatur for a Fine		0	1	0
Certificate in Battery, &c. and pub- lic Verdict, when the Court is adjourned to the Lodging, and Recognizance, each	}	0	2	0
Every private Verdict		0	2	0
To the Clerk as Steward		0	2	0
Share of Glove Money as Clerk		0	4	0
as Steward		0	4	0
as Trainbearer		0	4	0
By Laws of a Corporation allowed		3	0	0
For every Certificate for a Reward		0	5	0

Tipstaff attending the Lord Chief Justice of the Court of King's-Bench, on the Circuit.

THIS Officer holds his Place for Life by Appointment from the Proprietors of the *Marshalsea*, of the Court of *King's-Bench*, and usually takes the following Fees, on the Circuit.

For each Trial at Nisi Prius	0	3	6
For Trial of each Traverse	0	3	6
For the Acquittal of each Prisoner	0	2	0
For Glove Money	0	2	0
Of the Sheriff of each County	0	10	6

Tipstaff

*Tipstaff attending the Chief Justice of
the Court of Common-Pleas, on the
Circuit.*

THIS Officer is appointed for Life by the Warden of the *Fleet* Prison, and generally claims the following Fees, on the Circuit.

For every Trial at the Nisi Prius Side	0	2	0
For every Traverse on the Crown Side	0	2	0
For Glove Money, if no Criminal convicted (capitally he means)	}	0	2
From the Sheriff of the said County			
	0	10	6

*Fees usually taken by the Judge's
Servants.*

To the Coachman, as Bailiff, for keeping a Jury, in each Cause	}	0	2	0
For a private Verdict				
For carrying every Bill of Indict- ment from the Court to the Grand Jury.	}	0	0	4
To the Steward				
Cook	}	0	2	0
Porter				
To the Porter for a Fine acknowledged		0	0	4

S H E R I F F.

THE Sheriff attends at the Assises to wait upon the Judges from their Lodgings to the Court and back again; returns the Venire's, Ha-beas

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beas Corpora's, Diftringas's, and other Procefs, return Tales-men, receives the Calendar from the Clerk of the Affise, and fees that the several Judgments pronounced by the Court in Criminal Cases are duly put in Execution.

The Sberiff usually takes the following Fees.

For returning every Venire	0	2	6
For returning every Habeas Corpus, or Diftringas	0	12	0
For attending the Striking a special Jury, and making out Warrants for Summoning them	2	2	0
For returning a Tales	0	2	0
For attending a View, and returning the same of each Party 1 l. 1 s. each Day	2	2	0
For returning the Venire, on the Crown Side	0	12	0
For Summoning every Person on the Procefs, returnable in the said Court, after an Indictment found, or for taking them on the Capias, so that they be, and appear at the Affises.	0	2	0
For Summoning, or Distraining a Parish, Hundred, or County, on the Procefs, returnable in the said Courts, after an Indictment found, so that they be and appear at the Affises	0	4	0

CORO-

C O R O N E R S.

THE Coroners are to attend the Assises, and to deliver to the Clerk of the Assises all Inquisitions of Murder and Manslaughter, and also all Inquisitions of Felons de se per Infortunium ex visitatione Dei, and all Inquisitions where any Deodands are found, in order that the Clerk of the Assises, may transmit them to his Majesty's Coroner, and Attorney of his Majesty's Court of *King's-Bench*, to the End that Process may Issue to bring in the Deodand; they are likewise to attend to return the Venire's, Habeas Corpora's, Distringas's, and other Process, where the Sheriff is related to either Party, or interested in the Suit.

*The Fees usually taken by the Coroners,
are as follows.*

For returning every Venire Facias	0	2	6
For the Return of every Habeas } Corpora or Distringas	0	12	0
For the returning a Tales	0	2	0

*The Office of a Judge's Cryer on the
Circuit.*

At opening the Court.

O yes Three
Times.

MY Lords the King's Justices do strictly Charge and Command all Manner of Persons to keep Silence whilst his Majesty's Commissions of Assise and Nisi prius,
Oyer

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Oyer and Terminer, and General Gaol Delivery, for this County of *H.* are openly read, upon Pain of Imprisonment.

Essoings.

O YES. If any one will be Essoinged in Assise of Novel Disseisin, Assise of *Mortdancester*, Certificate of Assise, in Juris Utrum, or Attaint, Let him come forth, and he shall be heard.

Sheriffs Returns.

O YES. Sheriff of this County of *A.* return the several Precepts and Writs of Assise, and Nisi Prius to you directed, returnable here this Day, that my Lords the King's Justices may proceed thereon.

Entry of Writs and Records.

O YES. All Attorneys and others that have any Writs of Assise, or Records of Nisi Prius, or Writs of the same, Let him enter them with the Marshal forthwith, that my Lords the King's Justices may proceed thereon, (if ordered) otherwise, Ne recipiatur, will be entered.

Adjournment.

O YES. All Manner of Persons that have any thing further to do before my Lords the King's Justices of Assise and Nisi Prius, Oyer and Terminer, and General Gaol Delivery, for this County of *A.* (or City of *A.* and County of the same City or Town of, &c.) may depart hence at this Time, and give their Attendance To-morrow Morning at o'Clock, or this Afternoon at , &c.

Calling

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Calling of the Justices of the Peace.

O YES. All Justices of Peace for this County of *A.* answer to your Names, and save your Fines.

But for *Yorkshire*, you say, East Riding, West Riding, or North Riding.

O YES. All Mayors of Corporations and Burroughs within this County, answer to your Names, and save your Fines.

O YES. All Coroners of our Sovereign Lord the King for this County, answer to your Names, and save your Fines.

O YES. All Stewards of Lets and Liberties within this County, answer to your Names, and save your Fines.

O YES. All Chief Constables of Hundreds and Liberties within this County, answer to your Names, and save your Fines.

O YES. All Bailiffs of Hundreds and Liberties within this County, answer to your Names, and save your Fines.

Calling the Grand Jury.

O YES. You good Men that are returned to enquire for our Sovereign Lord the King, and the Body of this County of *A.* answer to your Names, and save your Fines.

Then the Cryer calls them by their Names with their Addition; and if any one does not appear upon second calling, He says, or you lose one hundred Shillings in Issue.

S f

Then

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Then the Marshal or Cryer swears them ;
and after all are sworn, the Cryer counts them,
and makes this Proclamation (*viz.*)

O YES. My Lords the King's Justices do
strictly Charge and Command all Man-
ner of Persons to keep Silence whilst his Majesty's
Proclamation against Profaneness and Immorality
be openly read, upon Pain of Imprisonment.

The Foreman of the Grand Jury's Oath.

You, as Foreman of this Grand Inquest, for
the Body of this County of *A.* shall diligently
enquire, and true Presentment make of all such
Matters and Things, as shall be given you in
Charge : The King's Council, your Fellows, and
your own, you shall keep secret : You shall pre-
sent no one for Envy, Hatred, or Malice ; nei-
ther shall you have any one unpresented for Fee,
Favour or Affection, Reward or Hope thereof,
but you shall present all Things truly as they
come to your Knowledge, according to the best of
your Understanding. So help you God.

The same Oath your Foreman has taken on his
Part, you, and every of you, shall truly observe
and keep on your Part. So help, &c,

Before the Charge given.

O YES. My Lords the King's Justices do
strictly Charge and Command all
Manner of Persons to keep Silence whilst the
Charge is given to the Grand Inquest, upon Pain
of Imprisonment.

Justices,

Justices, &c. to deliver Recognizances.

O Y E S. All Justices of the Peace, Mayors, Coroners, Stewards of Leets and Liberties, and other Officers that have taken any Inquisition or Recognizance, Let them deliver them into Court forthwith, that my Lords the King's Justices may proceed thereon.

To prefer Indictments.

O Y E S. All Manner of Persons that are bound by Recognizance to prefer any Bills of Indictment against any Prisoners in the Gaol, of this County, or others, Let them come forth and prosecute, or they will forfeit their Recognizance.

Go to the Clerk
of Indictments
Lodgings.

Calling Prosecutors.

A. B. come forth and prosecute, and give Evidence against E. D. or you forfeit your Recognizance.

Calling Persons out upon Bail.

A. B. of the Parish of, &c. come forth, save you and your Bail, or you forfeit your Recognizance.

Calling Bail to bring forth Principals.

A. B. and C. D. (with their Additions) bring forth the Body of E. E. whom you have undertook to appear here this Day, or you forfeit your Recognizance.

Calling Common Jury.

O Y E S. You good Men that are imparnelled to enquire between our Sovereign Lord the King, and the Prisoners at the Bar (if

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by Adjournment) and were adjourned to this Time and Place, answer to your Names, and save your Fines.

Information for the King against the Prisoner.

O Y E S. If any one can inform my Lords the King's Justices, King's Serjeant, or Attorney General e're this Inquest be now taken between our Sovereign Lord the King, and the Prisoner at the Bar, of any Treasons, Murders, Felonies, or other Misdemeanours committed, or done by the Prisoner at the Bar; Let him come forth, and he shall be heard; for they now stand at the Bar for their Deliverance. And all others that are bound by Recognizance, to give Evidence against the Prisoners at the Bar, Let them come forth, and give their Evidence, or else they forfeit their Recognizance.

Proclamation before Judgment given.

O Y E S. My Lords the King's Justices do strictly Charge and Command all Manner of Persons to keep Silence, whilst Sentence of Death is passing against the Prisoner at the Bar, upon Pain of Imprisonment.

To discharge Recognizance.

O Y E S. If any one can ought say why *A.* *B.* should stand any longer bound, Let them come forth, and they shall be heard, otherwise the Court does discharge him paying his Fees.

General Adjournment.

O Y E S. All Manner of Persons that have any thing further to do before my Lords the King's Justices of Assise and Nisi Prius,
Oyer

Oyer and Terminer, and General Gaol Delivery for this County of *B.* may depart hence at this Time, and give their Attendance here again at o'Clock, &c. or at my Lord's Lodgings, or in the other Court, as it shall happen.

Oath of High Constables upon Presentment.

You shall swear that such of these Presentments, as are your own, are true, and such as you received from the Hands of the Petty Constables are, as you received them without Alteration.

Oath of Jury of 'Life and Death.

You shall well and truly try, and true Deliverance make, between our Sovereign Lord the King, and the Prisoner at the Bar, whom you shall have in Charge, and true Verdict give, according to your Evidence. So help, &c.

Oath upon a Traverse tried.

You shall well and truly try the Issue of this Traverse, between our Sovereign Lord the King, and *A. B.* and a true Verdict give, according to your Evidence, &c.

The Matron's Oath.

You, as Forematron of this Jury, shall swear, that you will search and try the Prisoner at the Bar, whether she be with Child of a quick Child, and thereof a true Verdict give, according to your Skill and Understanding, &c.

One by one.

The same Oath your Forematron hath taken on her Part, you shall well and truly observe, and keep on your Part, &c.

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Swearing Crown Witneffes

The Evidence you shall give to the Court and Jury sworn, between our Sovereign Lord the King, and the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth, &c.

Swearing Witneffes upon a Traverfe.

The Evidence you shall give to the Court and Jury sworn, touching the Issue of this Traverfe, shall be the Truth, the whole Truth, and nothing but the Truth.

Swearing Bailiff to attend the Grand Jury.

You shall swear that you will diligently attend the Grand Inquest during the Assises, and carefully deliver to them all such Bills of Indictments, or other Things as shall be sent them by the Court, without Alteration. So help, &c.

The Oath of a Bailiff, when any goes out.

You shall swear you will keep every Person sworn of this Jury together in some private and convenient Place, without Drink, Lodging, or Fire (Candle-light excepted) you shall not suffer any Person to speak to them, neither shall you speak to them yourself, unless it be to ask them whether they agreed upon their Verdict, without Leave of the Court, &c.

A Proclamation for Silence to proceed to Business.

O Y E S. My Lords the King's Justices do strictly Charge and Command all Manner of Persons to keep Silence, for they will now proceed to the Pleas of the Crown, and Arraignment of Prisoners, upon their Lives and Deaths, and all those that are bound by Recognizance to give

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give Evidence against any of the Prisoners, which shall be at the Bar, Let them come forth, and give their Evidence, or they will forfeit their Recognizance.

Nisi Prius.

O YES. **A**LL Manner of Persons that have any thing further to do before my Lords the King's Justices of Assise and Nisi Prius, Oyer and Terminer, and General Gaol Delivery for the County of *A.* Draw near and give your Attendance.

Calling Nisi Prius Jury.

O YES. You good Men of Nisi Prius summoned to appear here this Day, and try this Issue between *A. B.* Plaintiff, and *C. D.* Defendant, answer to your Names, and save your Issues (if ordered) or you lose a Mark in Issues.

If there be not a full Jury say,
you have no Inquest, who prays a Tales.

Then call the Defendant Three Times thus.

A. B. come forth or this Inquest shall be taken by your Default.

Then swear the Jury.

You shall well and truly try the Issue of this Nisi Prius between the Parties, according to your Evidence, &c.

Nisi Prius Evidence.

The Evidence you shall give to the Court and the Jury sworn, touching the Issue of this Nisi
S f 4 Prius,

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Prius, shall be the Truth, the whole Truth, and nothing but the Truth, &c.

When the Jury is agreed upon, their Verdict, call the Plaintiff Three Times, thus:

A. B. come forth, or your lose you Writ of Nifi Prius.

If the Defendant, in Ejectment, confess Lease, Entry, and Ouster, then call the Plaintiff Three Times, thus:

A. B. come forth in your proper Person, or by your Attorney, and confess Lease, Entry, and Ouster, forthwith two Shilling.

Upon Information tried, this Proclamation.

O YES. If any one can inform my Lords the King's Justices, the King's Serjeant, Attorney General, e're this Inquest be taken, between our Sovereign Lord the King, and *A. B.* of any Misdemeanour committed, or done, Let him come forth, and he shall be heard.

If a Writ of Right.

You good Men of a Writ of Right, summoned to appear here this Day, and try the Issue, between *A. B.* Tenant, answer to your Names, and save your Issues.

Calling an Affise.

You good Men Recognitors impannelled to try the Matter of this Affise, answer to your Names, and save your Fines.

A. B. Tenant come forth, or this Affise will be taken, by your Default.

You

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You shall well and truly try the Matter of this Affise, between the Parties, according to your Evidence, &c.

You good Men Recognitors in this Affise, that have appeared, may depart at this Time, and give their Attendance, &c.

All Manner of Persons that are concerned in the Affise of Novel Disseisin, between *A. B.* Demander, and *C. D.* Tenant of a Freehold, Tenant in *B.* in this County, and were adjourned over to this House, Draw near, and give your Attendance.

Oath to Witnesses upon Indictment.

The Evidence you shall give to the Grand Inquest, upon his Bill of Indictment, against *A. B.* shall be the Truth, the whole Truth, and nothing but the Truth, &c.

Jur. in Cur. (is to be wrote on the Back of the Indictment.)

The Quakers Affirmation.

I *A. B.* do solemnly and sincerely declare, that the Evidence I shall give to the Court, and the Jury sworn, touching the Matter in Question, shall be the Truth, the whole Truth, and nothing but the Truth, &c.

At *Lancaster*, instead of a Commission, it is called his Majesty's Letters Patent.

In the County *Palatines*, instead of Affise and Nisi Prius, it is Affise and Court of Pleas.

THE

THE
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456

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Jam. 1. but as no mention is made of Clergy,
it is generally allowed

457

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457

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Rioters are punishable by Imprisonment, &c. 405

W O M E N.

- Indictment of Felony for taking a Woman against her Will, and marrying her (she having Substance in moveable Goods, Lands, and Tenements, &c.) and being her Father's Heir 597
Workmen, *see* Conspiracy.

F I N I S.

